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Senate

The Senate met at 9 a.m. and was called to order by the Honorable AL FRANKEN, a Senator from the State of Minnesota.

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by Rev. Father Gregoire J. Fluet, pastor of Saint Bridget of Kildare Church, Moodus, CT.

The guest Chaplain offered the following prayer:

For our prayer this day, I paraphrase a prayer written in 1791 by the first American Catholic bishop, Archbishop John Carroll, making his words my own.

Let us pray.

We pray that You, O God of might, wisdom and justice, through whom authority is rightly administered, laws are enacted, and judgment decreed would assist, with your Holy Spirit of counsel and fortitude, the President of these United States; that his administration may be conducted in righteousness, and eminently useful to Your people over whom he presides; by encouraging due respect for virtue and religion; by a faithful execution of the laws of justice and mercy; and by restraining vice and immorality.

Let the light of Your divine wisdom direct the deliberations of Congress, and shine forth in all the proceedings and laws framed for our rule and government, so that they may tend to the preservation of peace, the promotion of national happiness, the increase of industry, sobriety, and useful knowledge; and may perpetuate to us the blessings of equal liberty.

We recommend likewise, to Your unbounded mercy, all our brethren and fellow citizens throughout the United States, that they may be blessed in Your most holy law; that they may be preserved in union, and in that peace which the world cannot give. Great God, make of us a virtuous people, and allow us to walk always in Your love.

We beseech You to send Your special blessings and graces upon these elected leaders.

In Your Name, we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable AL FRANKEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 30, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable AL FRANKEN, a Senator from the State of Minnesota, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. FRANKEN thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

WELCOMING THE GUEST CHAPLAIN

Mr. DODD. Mr. President, it was a great honor to have Father Gregoire Fluet, my parish priest in East Haddam, CT, provide the opening prayer this morning. I thank him immensely for his words. Reaching back to Archbishop Carroll was a wonderful way to begin the session.

Father Fluet is not only my parish priest, Mr. President. He is a dear

friend and practically a member of my extended family. Father Fluet and I first met nearly 30 years ago when he was pastor of St. Joseph's Church in North Grovenordale, CT. Since his appointment in 1998 as pastor of my home parish, Saint Bridget of Kildare in East Haddam, Father Fluet has been an important figure in my life, providing spiritual advice and counsel to me on a number of occasions. Father Fluet has also played an important role in the lives of my two daughters, Grace and Christina. He baptized both of them after they were born, and provided religious instruction and first communion to my older daughter, Grace.

In addition to being a great spiritual leader, Father Fluet has long dedicated himself to the study of our Nation's history and particularly to the history of New England. Ever the consummate scholar, Father Fluet was awarded a doctorate in American History by Clark University in 2002, taught Western Civilization and World History as an adjunct professor at Quinebaug Valley Community College in Danielson, CT, and even published a history of the Diocese of Norwich.

But beyond his love of history, Father Fluet has always, first and foremost, demonstrated an unshakeable commitment to his flock and the people of our community. He is a wonderful human being, and I am confident that Saint Bridget of Kildare will continue to be blessed for years to come by Father Fluet's dedicated spiritual leadership.

Once again, I would like to reiterate what a true honor it has been to listen to Father Fluet's words this morning. Thank you for taking the time to be here today, Father Fluet. But most of all, thank you for everything you have done over the years for the people of our community.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SENATOR CHRIS DODD

Mr. REID. Mr. President, the good priest has a wonderful person as one of his parishioners, someone we all look up to, someone we will miss dearly. For me, it is a personal loss. He is very proud of his religion. Obviously, the guest Chaplain is one reason.

Mr. McCONNELL. Will the majority leader allow me to make an observation?

Mr. REID. Of course.

Mr. McCONNELL. Mr. President, I had the opportunity to meet the father in the hall. I expressed to him my admiration for Senator DODD. In fact, I said he was my favorite Democrat. We are indeed going to miss Senator DODD in the Senate in the coming years. I thank him for being with us this morning.

SCHEDULE

Mr. REID. Mr. President, after any leader remarks, the Senate will resume consideration of the food safety bill. There will be 2 minutes for debate prior a series of three rollcall votes. We will have the Coburn motion to suspend rule XXII for the purpose of proposing and considering Coburn amendment No. 4697, a Coburn motion to suspend rule XXII for purposes of proposing and considering Coburn amendment No. 4694, and then passage of this most important bill, the food safety bill.

Upon disposition of the food safety legislation, there will be a period of morning business, with Senators permitted to speak for up to 10 minutes each, and the Senate will recess from 12:30 to 4 p.m. to allow for party caucus meetings. They are a little longer today than normal because of organizational things we are working through.

At 4 p.m. today, Senator DODD will be recognized to give his farewell speech to us and the country.

MEASURE PLACED ON THE CALENDAR

Mr. REID. Mr. President, S. 3985 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 3985) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Mr. REID. Mr. President, I object to any further proceedings with respect to this legislation.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

WHITE HOUSE SUMMIT

Mr. McCONNELL. Mr. President, congressional leaders of both parties will meet with the President at the White House today to talk about the work we have to do before the end of the year and, hopefully, about the things we can do together to foster the right conditions for businesses to start investing again and creating jobs.

Americans are watching the economic drama that is playing out in Europe. They expect us to read the signs of the times and work together to make sure that we avoid a similar crisis here, that we don't walk right into the same problems through a lack of will or political courage.

The American people expect us to put the national interest ahead of party interest. And, frankly, that is why it has been so distressing for many of us to watch our Democrat friends grope for a clear and unified position on whether or not to raise taxes in the middle of a recession.

One would think that this issue would be simple and straightforward.

Economists say that preventing a tax increase is one of the most important things Congress can do to help the economy. And the voters ratified that view earlier this month by sending candidates from both parties to Washington who vowed not to raise taxes once they got here.

But our Democrat friends are apparently still reluctant to draw any clear lessons from the election. With millions of American households staring at the imminent prospect of smaller paychecks in just a few short weeks unless Congress does something, Democrats are still searching for a solution that enables them to benefit politically—regardless of what it does to the economy or to families.

Just take the latest proposal.

Some Democrats now say they only want to raise taxes on businesses that make more than \$1 million a year. Where did that number come from? Well, it turns out this figure has no economic justification whatsoever. Nowhere will we find a study or survey which indicates that raising taxes on small businesses with over \$1 million in income will create jobs or help spur the economy.

In fact, the author of this proposal freely admits it isn't an economic policy proposal at all, but rather one that was designed to provide better political messaging—an astonishing admission.

Let us get something straight. Millions of out-of-work Americans don't want a message. They want a job. Millions of struggling families trying to make ends meet don't need the Democrat messaging to improve; they need the economy to improve.

Selling bad economic policy to the American people is not an acceptable alternative to creating an environment that will put people back to work and help spur the economy.

We have heard a lot of chatter here in Washington lately about the negotiations that are expected to take place on this looming tax hike in the weeks ahead—on how to prevent it. How about we start with this: the beginning and end of any negotiation shouldn't be what is good for any political party. It should be what is good for the economy and for the American people. An if we leave the politics aside, if we look at the facts, the answer here is simple: no tax hikes on anybody—period.

So the question isn't what is best for the economy and jobs—the answer to that is obvious. The question is when will our friends on the other side get serious about either one.

It has been reported that the author of the \$1 million proposal ran it through a focus group to see how it polled. This is precisely the kind of thing Americans are telling us to put aside. The election was a month ago. It is time to move on. It is time to work together on the priorities Americans want us to address.

Republicans have heard the voters loud and clear. They want us to focus on preventing a tax hike on every taxpayer, on reining in Washington spending and on making it easier for employers to start hiring again. That is why Republican leaders are reiterating our offer to work with anyone, from either party, who is ready to focus on priorities like these.

The day after the election, the President acknowledged that “the overwhelming message” of the voters “[was] that . . . we want you to focus completely on jobs and the economy.”

That is the same message Republicans will bring to the White House today.

And that is why there is no reason we shouldn't be able to reach an agreement on taxes soon.

It is unclear how long our friends across the aisle will continue to resist the message of the election and cling to the liberal wish list that got us a job-killing healthcare law, a “cap-and-trade” national energy tax, an out-of-control spending spree, million more jobs lost, trillions more in debt, but not a single appropriations bill to fund the government or a bill to prevent the coming tax hikes.

With just a few weeks left before the end of the year, they are still clinging to the wrong priorities—instead of preventing a tax hike, they want to focus on immigration and don't ask, don't tell—and, maybe, if there is time left, see what they can do about jobs and the economy.

Indeed, their entire legislative plan for the rest of the lame duck session appears to be to focus on anything except jobs, which is astonishing when we consider the election we have just had.

Republicans aren't looking for a fight. We are appealing to common sense and a shared sense of responsibility for the millions of Americans who are looking to us to work together not on the priorities of the left, but on their priorities. And those priorities are clear.

Together, we must focus on the things Americans want us to do—not on what government wants Americans to accept. There is still time to do the right thing. The voters want us to show that we heard them, and Republicans are ready to work with anyone who is willing to do just that.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

FDA FOOD SAFETY MODERNIZATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 510, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 510) to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

Pending:

Reid (for Harkin) amendment No. 4715, in the nature of a substitute.

Coburn motion to suspend rule XXII of the Standing Rules of the Senate, for the purposes of proposing and considering Coburn amendment No. 4696.

Coburn motion to suspend rule XXII of the Standing Rules of the Senate, for the purposes of proposing and considering Coburn amendment No. 4697.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 2 minutes of debate equally divided and controlled between the Senator from Oklahoma, Mr. COBURN, and the Senator from Hawaii, Mr. INOUE.

The Senator from Illinois.

Mr. DURBIN. Mr. President, in the absence of Senator INOUE, I ask unanimous consent to speak on his behalf for the 1 minute allocated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MOTIONS TO SUSPEND

Mr. DURBIN. Mr. President, I am going to vote today against the Coburn effort to change our rules relative to earmark legislation.

I wish to tell you, as a member of the Senate Appropriations Committee, we have put in place what I consider to be the most dramatic reform of this appropriations process since I have served in Congress. There is full disclosure, in my office, of every single request for an appropriation. We then ask those who have made the request for the appropriation to have a full disclaimer of their involvement in the appropriation so it is there for the public record.

This kind of transparency is virtually unprecedented, and I think it is an effort to overcome some of the embarrassing episodes which occurred primarily in the House of Representatives under the other party's leadership, where people literally went to jail because of abuse of the earmark process.

I believe I have an important responsibility to the State of Illinois and the people I represent to direct Federal dollars into projects critically important for our State and its future. What the Senator from Oklahoma is setting out to do is to eliminate that option.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DURBIN. I hope my colleagues will join me in opposing the Coburn motion.

Mr. LEVIN. Mr. President, Senator COBURN has proposed an amendment to the badly needed food safety legislation now before the Senate that seeks to end congressionally directed spending, or earmarks. Senator COBURN described his amendment as an attempt to get spending under control, but it fails the test of accomplishing that goal and fails to meet Congress's constitutional obligation to exercise the power of the purse.

Article I, section 9 of the Constitution of the United States places the power of Federal spending in the Congress, the branch of government most directly connected to the people. The power of the purse is great, and therefore accountability for the exercise of that power should be great as well.

Our greater responsiveness in Congress to immediate public needs is essential. If the Coburn amendment passes, we would be barred from bringing that judgment to bear on some of the most pressing issues of the day. Instead, the executive branch—which is, in practice, the most bureaucratic and least responsive branch—would control these decisions. For example, under Senator COBURN's proposal, only the executive branch would have the power to initiate funding for disaster relief. Measures to appropriate funds in response to disasters would be prohibited because they would dedicate funding to specific locations. So, had this measure been in place when Hurricane Katrina struck the Gulf Coast, Congress would have been powerless to react. Similarly, had this restriction been in place when a Mississippi River bridge collapsed in Minnesota in 2007, Congress could not have appropriated the \$195 million it set aside for repair and reconstruction.

This measure also would prevent Members from addressing the urgent needs of our communities. I and other Members from Great Lakes States have urged the Army Corps of Engineers and other agencies to address the growing threat that Asian carp will make their way from the Mississippi River watershed into the Great Lakes. These invasive species of fish would devastate the lakes, doing enormous harm to our States' economies. So long as the

Army Corps continues to underfund this important work, only the action of Congress can prevent an economic disaster.

I would argue that each of these expenditures is important and necessary. But the wisdom or folly of these decisions lies in the merits of the projects themselves, not in the manner by which they were funded. Allowing the Congress to make these decisions allows the voters to judge them on their own merits, to reward their representatives when they make wise choices, and to render judgment in the voting booth when they do not.

Senator COBURN is rightly concerned about the long-term fiscal condition of the government. But it has been repeatedly pointed out, despite the fiction surrounding this issue, that this amendment would do nothing to improve our fiscal situation. Year after year, Congress works within the top line of budgets submitted by the President, readjusting priorities without increasing total spending. For this reason, the Coburn amendment would not reduce spending levels; it would simply shift greater authority for deciding how money is spent from the legislative branch to the executive.

There are two ways to close our fiscal gap. We can reduce spending or we can increase revenue. Banning congressionally directed spending does neither. It would create the impression that we have taken a step toward fiscal responsibility, without making any of the difficult choices that reducing the deficit will require. I applaud Senator COBURN's desire to address our debt. But this measure fails to do so and in the process abdicates our constitutional responsibilities. So I will oppose this amendment and urge our colleagues to do the same.

Mrs. FEINSTEIN. Mr. President, I rise today in opposition to the Coburn-McCaskill amendment, which would impose a 3-year moratorium on earmarks.

This amendment is a direct attack on the authority vested in the Congress to determine how Federal funds are spent, despite the fact that this power is clearly established in Article I of the U.S. Constitution.

I, for one, take great exception to this attack. It would set a dangerous precedent, in my view, to simply turn over a blank check to the executive branch and undermine the power that the Constitution grants Congress. What if an administration is not focused on the needs of a particular State, perhaps because that State didn't vote for that President?

For years I have fought for funding of flood control in Sacramento. Sacramento is one of the most endangered cities in the country when it comes to catastrophic risk of flooding. Neither Democratic nor Republican administrations have requested sufficient funding for the flood control improvements that will protect lives and property in that community.

As the Senator elected to represent the people behind those levees, shouldn't I be able to fight for the funding, whether or not the President agrees? I was elected by the people of California to represent the needs of California. And the people of Sacramento certainly believe they need flood control. This is my duty as a Senator. Isn't that why we have a Congress?

As a coequal branch of government, we shouldn't be forced to approach the administration with our hat in hand every time we believe something needs to be done.

Another flaw in this amendment is the well-trod idea that it will save this country money. Simply put, that is incorrect.

Discretionary spending is a popular target to attack. But the truth is that earmarks make up less than one-half of a percentage point of all Federal spending.

Earmarks are not the problem, so banning earmarks is not the solution.

The real problem is entitlement spending. But tackling entitlement reform is neither easy nor popular. So, instead, we attack earmarks. It sounds good, and it gets applause. But we all know that it doesn't solve the problem.

This amendment won't save this country one penny. It will merely shift the power of the purse from Congress to the White House and executive agencies.

If you want to reduce discretionary spending, it must be done through the budget process.

I am also concerned about the process the Coburn-McCaskill amendment sets forth for waiving this new rule.

Rather than putting into effect a traditional budgetary point of order, which requires a three-fifths vote to waive, this amendment calls for a two-thirds vote.

This means that if this amendment is approved, funding a public works project would require the same number of votes as constitutional amendments, impeachments, treaties, or the expulsion of Senators.

Why should the question of an earmark rise above the three-fifths requirement to invoke cloture on the very bill containing the earmark?

Finally, this amendment disregards the significant reforms that have already taken place to make the process transparent.

Since Democrats regained control of the Senate, the following reforms have been enacted: Members must publicly certify that they have no private interest in earmarks they request. Members must post their earmark requests on the internet. Every bill with earmarks includes a table listing the Senators who made the requests. This is the most transparent earmark process ever, and I believe the reforms have worked.

The earmark process has been abused in the past, but I firmly believe that eliminating the discretion of Congress

to appropriate taxpayer dollars is folly. A knee-jerk reaction that tips the balance of power toward the executive branch is not the solution.

Let me say this: I am open to further reform if it will make the process even more transparent.

The House of Representatives already bans earmarks to most private firms, and I would support doing so in the Senate.

I believe the best use of earmarks is to provide funding for projects that are essential to the public good, such as water infrastructure improvements in a city such as East Palo Alto that cannot provide clean water to its residents without a funding share from the Federal Government, or interoperable communications equipment in Contra Costa and Alameda Counties, which can be used when an earthquake or other catastrophe strikes.

I believe this amendment is wrong for the Senate, it is wrong for our States, and it is wrong for the people we come here to serve.

Handing over a fundamental responsibility to the executive branch, at a savings of zero dollars to the taxpayer, is not the solution. Continued reform of a process that is important to so many of our communities is the better alternative.

Mr. DORGAN. Mr. President, I rise today to speak against the Coburn amendment that would impose a 3-year moratorium on Congress' constitutional responsibility to direct the spending of the Federal Government.

The amendment in question propounds a problem that doesn't exist, a solution that resolves nothing, and an argument that is factually baseless.

This amendment will not lead to deficit reduction. In fiscal year 2010, congressionally directed initiatives make up less than one-half of 1 percent of total Federal spending.

With total spending at \$3.5 trillion it is irresponsible to tell the American people that congressionally directed spending of one-half of 1 percent of this total amount is the cause of our country's deficit problem.

Mathematically it is incorrect and mechanically it is incorrect. Doing away with congressionally directed initiatives does not guarantee deficit reduction—it guarantees members of the administration will make all the funding decisions.

Inherent in the arguments of the amendment's supporters is the contention that projects and activities selected by the administration are superior. The argument seems to rely on the notion that there is some objective formula used by the administration to select the best and most worthy projects to fund. This is false.

The fact is even in programs where some formula may be used, such as a cost-benefit ratio formula, the formula is not necessarily perfect and can often fail to capture all the facts.

A small port dredging project may not look worthwhile when just the

commercial traffic is calculated. However, when the sport fishery impact is included it makes the calculation different. Further, if the fish processing plant reliant on the commercial fishery is the largest employer in the county that makes a difference.

While the formula may not capture these facts and thus the project fails to make the President's budget request, the areas congressional members and senators will know the facts and seek to modify the budget.

There was a recent news article using a Missouri project as an illustration of this debate. The project was not requested in the budget and the senior Senator from Missouri rectified this fact by adding an earmark.

The junior Senator from Missouri is quoted in this article saying the project would have been funded without such an earmark if funding had not been diverted to less worthwhile earmarks. I am sorry, but there is no basis for the junior Senator's claim.

We have no idea what the administration will send up in the budget. A very worthwhile project may come forward and it may not. And the reverse may be true. The administration may send up a project that is not currently justified.

During the George W. Bush administration the budget request one year included construction funding for a Corps of Engineers project. The problem was the chief engineer's report was not completed yet because the studies were still on-going. Thus there was no way for the administration to know based upon any objective criteria whether the project should move into the construction phase.

While the project may have proved to be worthy there was no objective basis for the administration making that assessment at that time. The fact is the administration added the project out of some political calculation, not an objective calculation.

Let me provide some facts on earmarks using the civil side of the Corps of Engineers and the Bureau of Reclamation which have two of the most highly earmarked budgets of any Federal agency due to the way projects are authorized and appropriated.

For fiscal year 2010, the President proposed spending \$6.2 billion for these two agencies. In his request the President proposed 1,184 individual line items valued at \$4.8 billion based on criteria of his choosing. This criteria is not based in law nor was the criteria coordinated with anyone outside of the administration.

The criteria was developed to "get the biggest bang for the buck" but how do we know that? Just because that is what the administration says.

Upon my review of the budget request, I was convinced that the administration had left many priorities unfunded. That is why in preparing the fiscal year 2010 Energy and Water appropriations bill, the subcommittee of

which I am the chair, we used the criteria established in law to determine what projects were eligible for funding.

Further, we gave particular credence to funding ongoing work. It is not prudent to fund a construction project in one year and not fund it in the next. Yet the administration did not propose funding for more than 175 ongoing construction projects that were funded in fiscal year 2009.

These termination costs were not accounted for in the budgets that the agencies provided to Congress. The Corps or the Bureau of Reclamation cannot walk away from a construction site because they are not funded for that project. They would have to reprogram funds from other projects to make the site safe for the public until it was funded again.

Funding projects in this manner delays completion of the projects, increases the costs and defers the benefits that these projects provide to the national economy.

For fiscal year 2010, Congress provided \$6.58 billion for the COE and the Bureau of Reclamation. Congress directed \$817 million of this total funding. All of this directed funding was disclosed in the required disclosure tables in the report that accompanied the bill.

Let me list just a few projects that would not be funded in fiscal year 2011 if we enacted the President's budget request as proposed:

Blue River Basin flood control project in Missouri; Swope Park Industrial Area flood control project in Kansas City, MO; the Puget Sound and Adjacent Waters Environmental Restoration project in Washington; the Charleston Harbor, SC, navigation deepening study; the Virginia Beach, VA, hurricane protection project; and the Western Sarpy and Clear Creek, NE, flood control project.

For that last project in Nebraska, the funds proposed in the fiscal year 2011 Senate report would complete the project, yet it did not make it into the President's budget. Imagine these objective criteria that the administration uses would leave the completion of a fully authorized and economically justified construction budget for another year.

I must also mention the issue of transparency. Today all Member requests are available on line for public review. All Members must certify that they and their family have no pecuniary interest in these projects.

If there are legitimate proposals on further improving transparency then I am sure they will be given consideration, but as of today the public knows who is backing the projects we fund. There is accountability and there is sunlight.

I fear that if Congress cedes its authority to direct spending then we will go back to a time when Members, staff, and entities outside of the Federal Government will begin to pressure the administration and bureaucracy on getting specific projects funded.

There will be no disclosure of these phone calls and meetings. We will not know if any trades have been made in exchange for project support.

Why would we give up sunlight and accountability for darkness and unaccountability?

Let me close by reiterating the basic points.

First, this amendment will not reduce the deficit. At less than one-half of 1 percent of total spending congressionally directed spending is simply not going to make a difference, particularly when that funding will be left for the administration to direct its allocation.

Second, there is no objective formula that makes sure funding goes to the most worthwhile projects. It simply doesn't exist. The Constitution gives Congress the power of the purse. This ensures the President's power is checked and assures Federal elected officials closest to the people are making these decisions. It is absurd to give to an unelected bureaucracy that may never have been in your state the final decision on what projects to fund.

Third in project based accounts such as the Corps of Engineers the administration already earmarks the vast majority of projects funded. Congress is not abusing the power of the purse.

Lastly, we have greater transparency today on congressionally directed spending than ever before. If we do away with this transparent process we will be left with a dark, unknown process of congressional Members, constituent groups, and lobbyists seeking to influence the administration. We should not trade transparency for darkness.

Mrs. BOXER. Mr. President, I oppose the Coburn amendment to impose a 3-year moratorium on spending for local priorities, or "earmarks." Those who support this amendment claim that it will help reduce the deficit and put us on the path to fiscal responsibility. This is just incorrect.

Eliminating earmarks would not reduce spending and does nothing to decrease the deficit. This amendment would merely transfer spending authority away from elected members of Congress to the executive branch.

The Coburn amendment would strip elected leaders' ability to direct funding to their constituents' priorities. We should all agree that elected Members of Congress have a much better understanding of what is needed in our cities and towns, and across our States than those sitting in Washington, DC.

In addition, since 2006, Democrats have instituted a series of major reforms that have made earmarks more transparent than ever, and have reduced earmark levels by 50 percent. Members of Congress are now required to list their names next to requested projects and to post all requests on their official Web site. Through these initiatives Congress has taken significant steps to improve transparency and allow for greater scrutiny of these requests.

I am proud to say that I have helped fund hundreds of local priorities across my home State of California: priorities that have helped build safer roads, increased commerce, prevented homes from flooding, improved health care services, spurred job creation and helped veterans recover from combat injuries.

I oppose the motion to suspend the rules and allow for consideration of the Coburn amendment.

Mr. LEAHY. Mr. President, I rise today to express my opposition to the Coburn amendment. The legislative branch has a constitutional duty to make modifications and adjustments to the budget for the Federal Government. As a U.S. Senator and a member of the Appropriations Committee, I take very seriously the responsibility of the Senate to help craft the annual Federal budget. Members of Congress have a duty to their constituents to preserve their role in working with the executive branch, whether Democratic or Republican, about how, where, and in what manner Federal dollars are spent.

The U.S. Constitution gives the responsibility of spending and taxation to the Congress, not to unelected bureaucrats in the executive branch. The notion that individuals who are completely unaccountable to the American people will make spending decisions undermines the most basic principle of democracy. Instead, the Founding Fathers correctly put this burden on the shoulders of individuals who have to answer to voters at the ballot box.

Over the last few months, and particularly in the days since the election, some Members of Congress and Members-elect have been tripping over themselves to take a stronger position in opposition to so-called earmarks. Proponents of this amendment claim that it targets earmarks. I would argue otherwise. This amendment strikes at the heart of the balance that our Founding Fathers established between the executive and legislative branches of our government.

Every single State would be short-changed by the proposed moratorium on earmarks. The Founders knew better. They knew that a Washington bureaucracy would not always make decisions that were best for country, including people working and living in small towns and big cities across America.

That also includes making better decisions for the men and women who serve in our military. There is no better example than the National Guard and Reserve Equipment Account. Republican and Democratic administrations alike have short-changed the Guard equipment budget for decades and have done so even as the Guard has been called to provide as much as half of the troops needed for operations in Iraq and Afghanistan. Without the National Guard and Reserve equipment account, our National Guard units would still be going into battle without

equipment like body armor and blast-protected vehicles. Congress insisted on providing funding to our National Guard and that has saved countless lives and enabled them to carry out their missions more effectively.

Adopting this amendment is a vote for less transparency. It is a vote for backroom dealing and less sunlight on how decisions regarding Federal spending are made. One need only look back to when Congress has in the past failed to pass the appropriations bills and the government operated under a continuing resolution for the year. Federal spending did not go down by a single dime. Instead, unelected administration appointees made decisions on which projects they wanted to see funded.

It is my hope that before the next Congress a measure of sanity returns to discussion of the Federal budget. Everyone agrees that we must make serious changes to our Federal balance sheet and bring our fiscal house in order. But it was not earmarks that created our alarming Federal debt. Eliminating earmarks is not going to get our fiscal house in order. Instead it is going to expand the power of the executive branch and its employees. It also rolls back all of the transparency that Congress has embedded into its budget process.

Congress and the administration need to work together to address our Federal deficit. Adopting this amendment banning earmarks is a publicity stunt that has serious ramifications that actually moves our country in the wrong direction toward solving our problems in an open and constructive way.

Ms. KLOBUCHAR. Mr. President, I rise today to discuss the amendment offered by the senator from Oklahoma that would prohibit congressionally designated spending items from being included in any authorization, appropriations, or other bill for 3 years.

I firmly believe the appropriations process needs to be changed. I have supported strong reforms to increase transparency and accountability, and have pushed hard for these necessary reforms while ensuring that my State of Minnesota is not put at a competitive disadvantage.

In fact, before being sworn in as a U.S. Senator, I promised Minnesotans that I would fight to fund their priorities in an open manner and pledged to include these requests on my official Web site. At that point in time, the posting of requests online was not a rule of U.S. Senate.

Since arriving in the Senate, I have supported several important reforms to how Congress directs spending. I have voted for limitations on earmarks, including voting to ensure that American Recovery and Reinvestment Act funds would be competitively bid. I also voted to rescind funds directed to certain transportation projects that have not been spent.

Clearly, there is more we can do to improve this process and I will continue to push for necessary reforms.

However, I believe that congressional appropriations help provide much-needed resources for important programs and projects across my State. All of the projects I sponsor are based on Minnesota constituent requests and are available for the public to review.

Many of the requests I receive come from my visits to all 87 counties in Minnesota every year. A local mayor will show me a busy road that children in the community must cross many times a day to reach their school and baseball fields. And the mayor will ask me to request funds to help build an underpass that will allow these kids to safely get to school and their games.

Or a sheriff will show me how the local law enforcement's outdated communications equipment interferes with emergency response and endangers lives. And the sheriff will ask me to earmark funds to upgrade the department's radios.

In my State of Minnesota, we remember all too well how on August 1, 2007, the I-35W bridge across the Mississippi River in Minneapolis collapsed without warning. After we mourned the loss of 13 lives and the shock of the disaster had subsided, we got to work with enormous task of constructing a new bridge.

I worked hard with my colleagues in the Senate, especially Majority Whip DICK DURBIN, Transportation Appropriations Chairman PATTY MURRAY and Senator Norm Coleman, to provide up to \$195 million in funds to help with the cost of constructing a new bridge. Under Senator COBURN's amendment, this funding would be considered an earmark, and Minnesota would have been left looking for other ways to recover from this tragic event.

Earmarks have done more than build bridges in Minnesota. Earmarks have provided critical funding to the Minnesota National Guard's groundbreaking "Beyond the Yellow Ribbon Program," which is nationally recognized for the assistance it provides our service men and women who bravely served our nation and are now transitioning to civilian life.

Congressionally directed projects protect communities against annual flooding across my State from Roseau in the north to Moorhead in the west to Owatonna in the south. And congressionally initiated spending funds an innovative program in Stearns County, Minnesota to help protect women and children who have been the victims of domestic violence, provides much-needed resources to improve law enforcement communication and interoperability, and is building a new highway interchange in Blue Earth County, MN, that will improve safety and ease congestion while helping generate economic development.

Congressionally initiated spending cannot be discussed without also considering the grave financial situation

we face as a nation. It is clear that we will need to make very tough decisions in the coming years to restore fiscal responsibility and get our nation on a path towards strong growth. Yet the Coburn amendment would not direct any savings from the elimination of earmarks to be used for deficit reduction.

We need a serious commitment to deficit reduction, and I believe we need real reforms. I look forward to the report by the President's National Commission on Fiscal Responsibility and Reform and others who are taking a comprehensive look at government spending. It is my hope that we can come together to consider these recommendations carefully and reduce our nation's debt.

I am committed to serious fiscal discipline, and will continue to support real reforms to increase transparency to the appropriations process.

Mr. VOINOVICH. Mr. President, I rise today to express my opposition to the moratorium on earmarks that has been proposed by many of my colleagues.

We have done a lot of crusading around here against these so-called earmarks, or congressionally directed spending items, in our appropriations bills. They are often criticized by Members of Congress when discussing the unsustainable fiscal path of the Federal Government or its irresponsible overspending of taxpayers' dollars.

But my colleagues who oppose the use of earmarks miss the point. Earmarks, whether good or bad, are not the problem with our government. According to data from the Congressional Research Service and the Congressional Budget Office, in fiscal year 2010 earmarks accounted for 0.009 percent of the Federal budget. That is nine one-thousandths of 1 percent. Total earmarks amounted to \$32 billion, while the entire Federal budget was over \$3.5 trillion. And by the way, I would like to point out that the President-himself requested \$22 billion in earmarks.

But the biggest threat we face as a nation is not a special request for this or that project. The biggest threat we face is an unsustainable fiscal course caused by explosive and unchecked growth in entitlement spending and no money to pay for it. We have got an outdated tax code that does not sufficiently encourage economic growth, and a skyrocketing national debt that puts our credit-rating in serious jeopardy. In fiscal year 2010, entitlement spending accounted for 55 percent of the budget, compared with the 0.009 percent for earmarks I just referred to.

Now, I will say that I do agree with much of the criticism expressed in this chamber over bad earmarks. I don't support wasteful use of any taxpayer money, especially for egregiously useless projects that my colleagues often highlight as examples of why we should eliminate earmarks altogether.

But why throw out the baby with the bathwater? Certainly there is both

good and bad government spending. I support the kind of government spending that facilitates activity that is helpful to my State of Ohio and to our national economy: transportation and infrastructure, for example. And I am perfectly willing to defend that kind of spending and let the public decide whether my decision to help build roads and bridges in Ohio is an outrageous—or a proper—function of Federal Government. The Senate appropriations earmark process is transparent, and I welcome the public review of the projects I support, which I find constructive especially for hard-working, economically challenged families in Ohio.

The truth is Congress has a constitutional obligation to determine how the Nation spends its money. Banning earmarks cedes this power to unelected Federal bureaucrats in the administration. Congress should not be criticized for spending money, but only for spending it wastefully or irresponsibly, be it through earmarks or other spending. But the media loves to single out earmarks; they are hoodwinking people into thinking that by cracking down on earmarks, Congress is doing something responsible to solve this looming fiscal crisis staring us in the face. It's a disingenuous approach. And Congress is fooling the public by pretending that earmarks are the problem, when the real issues are spending and tax and entitlement reform.

It is interesting to note that many of my colleagues who are so strongly opposed to earmarks voted against the Conrad-Gregg fiscal commission that could very well have forced Congress to act upon tax and entitlement reform recommendations. How could one be so outspoken against earmarks in the name of fiscal responsibility and then oppose the commission that would propose reforms to the tax code and entitlements in order to put the country on a fiscally sustainable path?

So if my colleagues want to demonstrate true fiscal responsibility, if they admit that earmarks they have supported in the past are good use of tax dollars, and if they admit that banning earmarks would cede this control of spending from Congress to the administration, then why take such a blunt approach? Why don't we take more thoughtful and nuanced steps outlined by Senator INHOFE, who suggested we reform the already transparent earmark process and offered specific ideas on how to do it? Some of my colleagues practically admit that banning earmarks is not a very good idea per se, but that eliminating them is only politically expedient, as the public has come to see earmarks as a symbol of Washington's irresponsibility.

I don't want the public to be fooled by this. I don't support every earmark. There will always be examples of some wasteful projects somewhere. But earmarks are not the problem that gravely threatens our country's way of life,

and the future of our children and grandchildren. This is why for over 5 years I have worked to create a commission to solve our Nation's real fiscal problems, and why I hope that the commission created by the President can produce a final legislative proposal that will effectively address our unchecked entitlement growth, our outdated and overly complex Tax Code, and return our Nation to a sustainable fiscal path.

The ACTING PRESIDENT pro tempore. Under the previous order, the question is on agreeing to the Coburn motion to suspend the rules with respect to amendment No. 4697.

Mr. GRASSLEY. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Maryland (Ms. MIKULSKI), and the Senator from New Hampshire (Mrs. SHAHEEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND) and the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER (Mr. BENNET). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 39, nays 56, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—39

Alexander	Ensign	McCain
Barrasso	Enzi	McCaskill
Bayh	Feingold	McConnell
Bennet	Graham	Nelson (FL)
Brown (MA)	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Snowe
Coburn	Isakson	Thune
Corker	Johanns	Udall (CO)
Cornyn	Kirk	Vitter
Crapo	Kyl	Warner
DeMint	LeMieux	Wicker

NAYS—56

Akaka	Gillibrand	Murkowski
Baucus	Hagan	Murray
Begich	Harkin	Nelson (NE)
Bennett	Inhofe	Pryor
Bingaman	Inouye	Reed
Brown (OH)	Johnson	Reid
Cantwell	Kerry	Rockefeller
Cardin	Klobuchar	Sanders
Carper	Kohl	Schumer
Casey	Landrieu	Shelby
Cochran	Lautenberg	Specter
Collins	Leahy	Stabenow
Conrad	Levin	Tester
Coons	Lieberman	Udall (NM)
Dodd	Lincoln	Voinovich
Dorgan	Lugar	Webb
Durbin	Manchin	Whitehouse
Feinstein	Menendez	Wyden
Franken	Merkley	

NOT VOTING—5

Bond	Brownback	Shaheen
Boxer	Mikulski	

The PRESIDING OFFICER. On this vote, the yeas are 39, the nays are 56. Two-thirds of the Senators voting not

having voted in the affirmative, the motion is rejected.

Under the previous order, the question is on the Coburn motion to suspend the rules with respect to amendment No. 4696. There will be 2 minutes of debate equally divided prior to the vote.

Who yields time? The Senator from Iowa.

Mr. HARKIN. Mr. President, we are rapidly approaching the final vote on the Food Safety Modernization Act. For the first time in seven decades, the Congress has addressed this issue. It has taken several years to get to this point. We have had involvement from Republicans and Democrats, from the business community, and from the consumers groups. It is widely supported by both the business sector and the consumer groups. We have had good bipartisan support on this bill with Senator ENZI and others on our committee. This is the product of a long effort to reach the compromise we needed to get good legislation through.

The vote we are about to have now is on a substitute offered by my friend, the Senator from Oklahoma. This substitute would basically kill all of this work we have done. It eliminates a lot of the provisions we have in this bill, such as the preventive control provisions that I think is one of the most important parts of this bill, to get preventive measures in and to prevent the contamination of food in the first place.

It also eliminates the important trace-back provisions that we have in this bill that we have worked on on a bipartisan basis. It would eliminate the important foreign supplier verification provisions which say they have to verify that the food coming into this country is the same as this.

I ask Senators to reject the substitute.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, Senator HARKIN and many on the HELP Committee have worked hard on the bill that is before us. But it has fatal flaws, especially at a time when there is a \$14 trillion debt and a \$1.3 trillion deficit, and it doesn't fix the real problem. We can spend \$1.4 billion in this bill. We can cause food prices to go up at least \$300 million to \$400 million. We can put unfunded mandates on the States for \$141 billion a year. That is what we will do if we reject this alternative. This accomplishes the same thing, given that we have the safest food in the world. We will continue to have the safest food in the world, we will move forward, but we won't do it by creating layers upon layers of additional costs and regulations. The problem with food safety is that the agencies don't do what they are supposed to be doing now. They need less regulation, not more.

I yield the floor.

Mr. ALEXANDER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND) and the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 36, nays 62, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—36

Alexander	Crapo	Kyl
Barrasso	DeMint	LeMieux
Bennett	Ensign	McCain
Brown (MA)	Enzi	McConnell
Bunning	Graham	Murkowski
Burr	Grassley	Risch
Chambliss	Gregg	Roberts
Coburn	Hatch	Sessions
Cochran	Hutchison	Shelby
Collins	Inhofe	Snowe
Corker	Isakson	Thune
Cornyn	Johanns	Wicker

NAYS—62

Akaka	Hagan	Nelson (NE)
Baucus	Harkin	Nelson (FL)
Bayh	Inouye	Pryor
Begich	Johnson	Reed
Bennet	Kerry	Reid
Bingaman	Kirk	Rockefeller
Boxer	Klobuchar	Sanders
Brown (OH)	Kohl	Schumer
Cantwell	Landrieu	Shaheen
Cardin	Lautenberg	Specter
Carper	Leahy	Stabenow
Casey	Levin	Tester
Conrad	Lieberman	Udall (CO)
Coons	Lincoln	Udall (NM)
Dodd	Lugar	Vitter
Dorgan	Manchin	Voinovich
Durbin	McCaskill	Warner
Feingold	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murray	

NOT VOTING—2

Bond	Brownback
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The PRESIDING OFFICER. On this vote, the yeas are 36, the nays are 62. Two-thirds of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mrs. BOXER. Mr. President, I move to reconsider the vote by which the motion was rejected and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE EXPLANATION

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I was unavoidably delayed on vote No. 255, the Coburn motion to suspend the rules as to the Coburn amendment on earmarks. I would have voted a very strong no because I believe that authority should remain with the elected representatives and not go to bureaucrats.

SAVINGS CLAUSES

Mr. DURBIN. Will the distinguished floor manager for this bill yield in order to enter into a colloquy to clarify the meaning of certain provisions in the legislation?

Mr. HARKIN. I am pleased to yield to the distinguished majority whip and lead sponsor of this legislation.

Mr. DURBIN. Mr. President, I wanted to clarify an important part of this bill. While this bill does grant FDA many new authorities, the savings clauses in this bill—in particular, sections 403(3), 418(1)(3)(B), and 41900(3)(B)—preserve all of FDA's existing authority under both the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, am I correct?

Mr. HARKIN. That is correct.

Mr. DURBIN. So while the bill does provide for certain exemptions from FDA authority for small farms and food processing facilities, these exemptions are based only on the specific provisions added by S. 510; they do not prevent FDA from taking appropriate actions against specific farms or facilities—or from issuing regulations in the future that might affect those exempted farms and facilities—based on existing authorities that are currently in effect and will continue to be in effect after enactment of S. 510. Am I understanding this correctly?

Mr. HARKIN. My colleague is correct. The exemptions for small farms and facilities in S. 510 do not in any way circumscribe FDA's existing authority under current laws. As my distinguished colleague has just stated, this existing authority is expressly preserved in the savings clauses in the bill. Over the past 15 years, FDA has relied on a number of provisions in existing law in establishing preventive control, or "HACCP," and other preventive requirements for seafood, eggs, and juice. These authorities include section 402(a)(4) of the Federal Food Drug and Cosmetic Act, which gives FDA the authority to take action against "adulterated food" when that food has been subjected to "insanitary conditions." In adopting these regulations, FDA has also relied on section 701(a) of the food and drug law, which gives it broad authority to issue regulations "for the efficient enforcement" of that law, as well as its authority to "prevent the introduction, transmission, or spread of communicable diseases" under section 361 of the Public Health Service Act.

Mr. DURBIN. I thank my distinguished colleague for clarifying this important matter.

Mr. LEVIN. Mr. President, each year, 76 million Americans are sickened by foodborne illness. More than 300,000 become so sick they must be hospitalized. More than 5,000 die of their illness. These statistics are deeply worrisome. And behind each number is a family dealing with tragic loss or expensive hospital bills or concern for a sick child.

The situation cries for action, which is why I support passage of the legislation we are now considering, the FDA Food Safety Modernization Act. This legislation seeks to address major deficiencies in the system that protects

Americans from foodborne illnesses. It includes provisions recommended by Republicans and Democrats, by government experts and outside groups. It should have strong bipartisan support.

The bill would give FDA authority to initiate food recalls even when producers of unsafe foods refuse to do so voluntarily. It would strengthen FDA's ability to trace harmful products to their source. It would crack down on the unsafe food imports that have been the source of many health-risk incidents. It would increase FDA's authority to inspect food-producing facilities to prevent illnesses. And it would require greater diligence on the part of those producers to prevent foodborne illnesses and other health threats.

Passing this legislation will make our food safer and protect Americans from harm. I will vote to approve it, and I hope for a strong bipartisan vote in favor of this bill.

Mr. WHITEHOUSE. Mr. President, I rise today in support of the FDA Food Safety Modernization Act. I commend Senator DURBIN, Senator HARKIN, and the many other Senators who have worked so hard for so long on this important legislation. It is long past time that we make improvements to our food safety procedures in the United States, and we can see by the diversity of interests that have come together to support this bill from industry to farm to consumer groups that the time to address this issue is now.

Like so many Rhode Islanders, I have been appalled by the stories of deaths and serious illnesses from seemingly benign foods such as peanut butter and spinach. These are foods we bring into our homes, expecting them to nourish our families. We shouldn't have to worry that they might make our children sick. American families need to know that their government is protecting the food supply.

This bill goes a long way toward improving the Food and Drug Administration's food inspection and recall system. First, the bill improves our ability to prevent food safety emergencies through better record keeping, hazard analysis, controls, and food safety plans. These standards are also applied to imported foods, which is increasingly important in our global economy. Second, FDA's ability to react to foodborne illness outbreaks is significantly enhanced by increasing inspection and surveillance, making food more traceable in order to more quickly pinpoint the source of an outbreak. Furthermore, the bill grants the FDA the authority to order a mandatory recall of food if a company refuses to participate in a voluntary recall. Finally, this bill enhances FDA's capability to protect the American food supply from terrorist threats and from intentional contamination through building cooperation with the Department of Homeland Security at our ports.

I am very pleased that all of this is accomplished while protecting small farmers and producers. Rhode Island is

very proud of its small farms, local produce, and the wonderful farmers markets that can be found throughout the State. Our farmers are proud to feed families in Rhode Island and the surrounding States, and I know they do everything possible to ensure the food they sell is safe. I thank Senator TESTER for his work on a compromise to protect farmers like those in Rhode Island, and throughout Nation, who believe in the value of locally grown food.

It has been disappointing that the process to bring this bill about has taken so long. The bill's sponsors have been trying to bring it to the floor of the Senate for a vote for months, during which time the outbreak of salmonella in eggs made the need to improve our food inspection system even more clear. This is not a perfect bill, but it is a necessary one. Once it is passed, we must continue to build upon it. The matter of our families' safety is not a partisan issue; ensuring food safety is a fundamental function of our Federal Government.

Mr. CASEY. Mr. President, the next time we sit down to eat dinner with our families, are we sure that the food on our tables is safe to eat? I understand that many Americans are concerned about food safety issues. We all want food for our families that is nutritious and free from foodborne pathogens and contaminants. Ensuring that our food supply, both domestic and foreign food products, is safe is a high priority for me. I am focused on food safety not only as a lawmaker but also as a consumer and a father.

Americans have every right to expect a safe food supply. We need solutions to give Americans peace of mind that the foods they eat and give to their families are safe to consume. There are 76 million cases of foodborne illness in this country every year. These illnesses send an estimated 300,000 Americans to the hospital each year and they kill an estimated 5,000 individuals yearly. Many of these deaths occur in vulnerable members of our communities: young children, the elderly, or those with chronic illnesses.

I will share with you the story, a real story, of Kevin Kowalczyk, a 2-year-old boy, who was sickened with an E. coli O157:H7 infection that he acquired from eating a common food. I want to speak about Kevin because I want to be clear that when we are not talking about statistics today, we are talking about real people, real lives. Kevin's illness started with vomiting and diarrhea, but soon he was passing large amounts of blood. On the third day of his illness, he was diagnosed and hospitalized. On the following day, his kidneys started to fail. The medical staff, while brutally honest about how hemolytic uremic syndrome, HUS, affected children, felt that Kevin would live. They told Kevin's parents that he would go to the brink of death—which he did on several occasions—because “this is the way it is for HUS kids.”

On day 12 of his illness, this normally healthy little boy looked as sick as a

child can look. His body was swollen to three times its normal size, and he was hooked up to a dialysis machine and a respirator. His heart raced at 200 beats per minute, and light from huge sun lamps focused on him, in attempt to raise his body temperature. Kevin could not speak or cry. His loving family could not hold him. He suffered three heart attacks as they struggled to put him on a heart-lung machine. And then Kevin died. The autopsy later showed that his entire intestinal tract had been destroyed by gangrene.

One month after Kevin's August 11, 2001, death, America experienced the horrible 9/11 attack, and the Kowalczyk family were told that they were having another baby. Kevin's grandmother, Pat Buck, a Pennsylvania resident, was very concerned about her daughter and her new grandchild, and she was horrified by the type of death that her grandson had endured. So Pat did what any teacher would do and started studying foodborne illnesses. What she learned shocked and appalled her.

By March 2002, Kevin's family was actively involved in food safety advocacy. In April 2003, Senator HARKIN declared that the Meat and Poultry Pathogen Reduction and Enforcement Act would be renamed Kevin's Law. In 2006, after the spinach outbreak, Barbara Kowalczyk, Kevin's mother, and Pat Buck founded the Center for Foodborne Illness Research & Prevention, CFI, a national nonprofit dedicated to preventing foodborne illness through research, education, advocacy, and service. In 2007, Barbara and Pat were asked to participate in the filming of the Oscar-nominated documentary, “Food Inc.” Today, CFI is viewed as a credible organization that is looking for science-based solutions to America's food safety challenges.

I tell you about Kevin's story because it is a powerful reminder that real people are being affected by foodborne disease, not just once in awhile but every day. I want to thank Barbara and Pat Buck for sharing their story and becoming involved in such an important issue that affects all of our lives. In particular, I am thankful to them for turning their family's tragedy into an action that will help to ensure no child would ever again go through Kevin's horrible experience.

As Pat said to me once while visiting my office, “It is time to move forward. Too many people are being sickened, too many are suffering negative, long-term health consequences and too many are dying because they ate a common food, such as peanut butter, cookie dough or fresh produce. The 1938 law governing the Food and Drug Administration is too obsolete and it does not provide the Agency with the authorities or resources needed to develop a proactive approach to food safety. S. 510 will help FDA to become more proactive. This legislation is needed to help America meet the food challenges of the 21st century.”

The U.S. Senate must modernize the U.S. system of food safety and inspec-

tion. That is why I am pleased to support passage of S. 510, Senator DURBIN's Food Safety Modernization Act. We must provide the agencies that regulate food safety with additional authorities to ensure the safety of our Nation's food supply. We must provide increased resources to the FDA so that it can hire more personnel and so it can invest in improvements to domestic and imported food products inspection systems. We must mandate science-based regulations to ensure the safety of food products that carry the most risk. We must improve coordination between USDA, FDA, and the various other Federal and State agencies charged with regulating food safety. We must implement a national traceability system so we have consistency and know where our food comes from. And we must ensure the safety of both domestic and foreign food products.

With Senator GRASSLEY, I introduced the EAT SAFE Act, which is designed to address a critical aspect of the food and agricultural import system: food being smuggled into the United States. The greatest threat of smuggled food and agricultural products comes from the companies, importers, and individuals who circumvent U.S. inspection requirements or restrictions on imports of certain products from a particular country. Some examples of prohibited products discovered in U.S. commerce in recent years include unpasteurized raw cheeses from Mexico containing a bacterium that causes tuberculosis and strawberries from Mexico contaminated with hepatitis A. These smuggled food and agriculture products present safety risks to our food, plants, and animals and pose a threat to our Nation's health, economy, and security.

I am grateful to Chairman HARKIN, Ranking Member ENZI, Senator DURBIN, Senator DODD, Senator GREGG, and Senator BURR for incorporating portions of the EAT SAFE Act into S. 510. These provisions would add personnel to detect, track, and remove smuggled food, call for the development and implementation of strategies to stop food from being smuggled into the United States, and require data sharing amongst Federal agencies dealing with food safety and foodborne illnesses. I am thankful that this important issue is being addressed so that mothers and fathers across the Nation won't have to be concerned when they pack their children's lunches, sit down to eat a family dinner, or give their child a snack.

In the Senate, we owe it every American consumer to make needed improvements to our food safety system before another outbreak sickens our citizens, and we need to make sure that we are vigilant and vigorously monitor and update our food safety system so that Americans can continue to be confident that the food they eat is safe.

Mr. GREGG. Mr. President, I rise to speak briefly about S. 510, the FDA

Food Safety Modernization Act, which we will be voting on today.

This bill incorporates the best ideas from food safety experts, farmers, small business owners, the Bush administration's Food Protection Plan, the Obama administration's Food Safety Working Group, and Members on both sides of the aisle. When enacted, it will transform America's approach to food safety by emphasizing prevention and by strengthening our capacity to detect and rapidly respond when food safety emergencies occur in the future.

I would especially like to thank Senator DURBIN for all of his efforts on the issue of food safety and his commitment to working on this issue in a bipartisan manner. We originally teamed up to begin this effort in the spring of 2008, and after numerous drafts and twist and turns, I am hopeful that we are close to getting this bill across the finish line.

None of this would have been possible without a core group of bipartisan Members who have helped shepherd this bill since its inception. Senator BURR has been a key leader on food defense issues and has worked tirelessly to ensure that this bill is not burdensome for small farmers and food producers. Senator DODD, along with Senator ALEXANDER, contributed greatly to the bill as a whole, and were instrumental in providing a key provision relating to the need for schools to be more prepared to protect children with life-threatening food allergies.

We have also been extremely fortunate to have the tireless support of both Chairman HARKIN and Ranking Member ENZI, who assisted in moving the bill through the HELP Committee with unanimous support roughly a year ago, and who, in the last year have helped us navigate our way to the floor.

Finally, I would like to thank our staffs who have put so much time into this legislative effort. Although it has been a long and sometimes arduous process, they have shown time and again that almost every problem is solvable when you get a group of hard working folks around a table. I would like to especially recognize and thank my own lead staffer on this bill, Liz Wroe, as well as the following:

Dave Lazarus, Candice Cho, and Albert Sanders with Senator DURBIN; Jenny Ware, Jenn Alton, Josh Martin, Margaret Brooks, and Anna Abram with Senator BURR; Jenelle Krishnamoorthy, Tom Kraus, and Bill McConagha with Senator HARKIN; Amy Muhlberg, Travis Jordan, Keith Flanagan, and Chuck Clapton with Senator ENZI; and Tamar Magarik Haro and Anna Staton with Senator DODD.

Mr. LEAHY. Mr. President, the Senate is poised to pass the FDA Food Safety Modernization Act, which will take much needed and long overdue steps to protect Americans from unsafe food. I am disappointed that the Senate will not consider, however, an important amendment I proposed that would

have held criminals who poison our food supply accountable for their crimes. My amendment would have greatly strengthened the ability to deter outrageous conduct that puts Americans at risk. It received unanimous, bipartisan support when it was reported by the Judiciary Committee as the Food Safety Accountability Act. It is unfortunate that, despite this bipartisan support in committee, Republican objections prevented the amendment from being considered by the full Senate.

This legislative proposal would increase the sentences that prosecutors can seek for people who knowingly violate our food safety laws in those cases where there is conscious or reckless disregard of a risk of death or serious bodily injury. If it were passed, those who knowingly contaminate our food supply and endanger Americans could receive up to 10 years in jail.

Just this summer, a salmonella outbreak caused hundreds of people to fall ill and triggered a national egg recall. The cause of the outbreak is still under investigation, but salmonella poisoning is too common and sometimes results from inexcusable knowing conduct. The company responsible for the eggs at the root of this summer's salmonella crisis had a long history of environmental, immigration, labor, and food safety violations. It is clear that fines are not enough to protect the public and effectively deter this unacceptable conduct. We need to make sure that those who knowingly poison the food supply will go to jail. This amendment would have done that in the most egregious cases.

Current statutes do not provide sufficient criminal sanctions for those who knowingly violate our food safety laws. Knowingly distributing adulterated food is already illegal, but it is merely a misdemeanor right now, and the Sentencing Commission has found that it generally does not result in jail time. The fines and recalls that usually result from criminal violations under current law fall short in protecting the public from harmful products. Too often, those who are willing to endanger our children in pursuit of profits view such fines or recalls as merely the cost of doing business.

Last year, a mother from Vermont, Gabrielle Meunier, testified before the Senate Agriculture Committee about her 7-year-old son, Christopher, who became severely ill and was hospitalized for 6 days after he developed salmonella poisoning from peanut crackers. Thankfully, Christopher recovered, but Mrs. Meunier's story highlighted improvements that are needed in our food safety system. No parent should have to go through what she experienced. The American people should be confident that the food they buy for their families is safe.

After hearing Mrs. Meunier's account last year, I called on the Department of Justice to conduct a criminal investigation into the outbreak of sal-

monella that made Christopher and many others so sick. In that case, the outbreak was traced to the Peanut Corporation of America. The president of that company, Stewart Parnell, came before Congress and invoked his right against self-incrimination, refusing to answer questions about his role in distributing contaminated peanut products. These products were linked to the deaths of 9 people and have sickened more than 600 others.

It appears that Mr. Parnell knew that peanut products from his company had tested positive for deadly salmonella, but rather than immediately disposing of the products, he sought ways to sell them anyway. The evidence suggests that he knowingly put profit above the public's safety. Our laws must be strengthened to ensure this does not happen again. My amendment would increase the chances that those who disregard the safety of Americans and commit food safety crimes will face jail time, rather than a slap on the wrist, for their criminal conduct.

On behalf of the hundreds of individuals sickened by this summer's and last year's salmonella outbreaks, we must repair our broken food safety system. The House has already passed a provision similar to my amendment. I am sorry that partisan objections from a few Senators prevented the Senate from quickly adopting this important amendment. I will continue to try to pass this commonsense legislation even if it cannot be coupled with the FDA Food Safety Modernization Act, and I hope the Senate will act quickly to pass it separately.

Mr. HARKIN. Mr. President, one of the most difficult issues I have had to face as manager of S. 510 is the balance between small growers and processors and larger producers and food companies. This is always a tough issue in agriculture. Those of us who work with our food system know that one size does not fit all. It is always hard to get it right.

In this case, I know that some of my colleagues think the Tester-sponsored language goes too far to help small growers and processors. I don't think we have, and here is why I say that. There are some very important limitations on the Tester provisions in S. 510. First, small businesses as we define them here are really small—a company that does \$500,000 of sales a year is very small. We can't say exactly how much food these small companies sell, but here is a good example that shows how small these eligible companies are: The smallest member of the California League of Food Processors reports between \$2.5 and \$3 million a year in sales or five times as much as any company eligible under the Tester provisions.

Second, many food companies that buy product from eligible producers will tell them: Hey I want you to follow FDA regulations. I want all my suppliers to follow FDA rules. Some may even require their suppliers to do

more than FDA requires. That decision is part of a private contractual relationship. This bill does not affect these arrangements. They will continue to exist and will limit the application of any exemptions provided in this bill.

Third, processors that want to be exempted will have to document that they meet the exemption. There are two ways to do that. First, they must show they are in compliance with State law or second, they must show that they have completed a food safety plan of their own. Many processors will simply decide that for competitive reasons or lack of capacity they will simply stick with whatever FDA requires. This is another pragmatic limitation on the Tester provisions.

Fourth and finally, FDA is specifically authorized to take action and revoke an exemption if it determines that the food presents a public health risk, and FDA can act to prevent an outbreak if needed. This provision creates a "one-strike-you are out" exemption: once a farm or food processing facility has lost its exemption, it may never be reinstated.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR SENATE AMENDMENT 4715 IN THE NATURE OF A SUBSTITUTE TO S. 510, FDA FOOD SAFETY MODERNIZATION ACT

	By fiscal year, in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
Statutory Pay-As-You-Go-Impact ^a	0	0	0	0	0	0	0	0	0	0	0	0

^a S. 510 would increase federal efforts to ensure the safety of commercially distributed food. S. 510 would stipulate that the failure to comply with new requirements, such as mandatory recalls and risk-based preventive controls, could result in the assessment of civil or criminal penalties. Criminal fines are recorded as revenues, then deposited in the Crime Victims Fund, and later spent. Enacting S. 510 could increase revenues and direct spending, but CBO estimates that the net budget impact would be negligible for each year.

Source: Congressional Budget Office.

The ACTING PRESIDENT pro tempore. Under the previous order, the cloture motion with respect to the bill is withdrawn and the question is on passage of S. 510, as amended.

Ms. LANDRIEU. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND) and the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—73

Akaka	Collins	Inouye
Alexander	Conrad	Johanns
Baucus	Coons	Johnson
Bayh	Dodd	Kerry
Begich	Dorgan	Kirk
Bennet	Durbin	Klobuchar
Bingaman	Enzi	Kohl
Boxer	Feingold	Landrieu
Brown (MA)	Feinstein	Lautenberg
Brown (OH)	Franken	Leahy
Burr	Gillibrand	LeMieux
Cantwell	Grassley	Levin
Cardin	Gregg	Lieberman
Carper	Hagan	Lincoln
Casey	Harkin	Lugar

Mr. President, it is not the intent of this legislation to include in the definition of "facility," for purposes of either FFDCA Sec. 415 or for the pending bill, seed production or storage establishments as long as they do not manufacture, process, pack, or hold seed reasonably expected to be used as food or feed. Further, we note that seeds not used as food or feed have historically not been subject to oversight by FDA.

The PRESIDING OFFICER. Under the previous order, amendment No. 4715 is agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that after adoption of the substitute amendment to S. 510 and now, after the third reading, the Senate then proceed to Calendar No. 74, H.R. 2751; that all after the enacting clause be stricken and the text of S. 510, as amended, be inserted in lieu

thereof; that no further amendments or motions be in order; that the bill, as amended, be read a third time, and after the reading of the Budget Committee pay-go letter, the Senate then proceed to vote on the passage of H.R. 2751, as amended; further, that the title amendment, which is at the desk, be considered and agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Under the previous order, the clerk will read the pay-go statement.

The legislative clerk read as follows:

Mr. Conrad: This is the Statement of Budgetary Effects of PAYGO Legislation for S. 510, as amended.

Total Budgetary Effects of S. 510 for the 5-year statutory PAYGO Scorecard: \$0.

Total Budgetary Effects of S. 510 for the 10-year Statutory PAYGO Scorecard: \$0.

Also submitted for the Record as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

Manchin	Reed	Udall (CO)
McCaskill	Reid	Udall (NM)
Menendez	Rockefeller	Vitter
Merkley	Sanders	Voinovich
Mikulski	Schumer	Warner
Murkowski	Shaheen	Webb
Murray	Snowe	Whitehouse
Nelson (NE)	Specter	Wyden
Nelson (FL)	Stabenow	
Pryor	Tester	

NAYS—25

Barrasso	DeMint	McConnell
Bennett	Ensign	Risch
Bunning	Graham	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Thune
Corker	Isakson	Wicker
Cornyn	Kyl	
Crapo	McCain	

NOT VOTING—2

Bond	Brownback
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The bill (S. 510), as amended, was aged to.

Mr. HARKIN. Mr. President, I move to reconsider the vote and move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

PASSAGE OF S. 510

Mr. HARKIN. Mr. President, today with the passage of the Food Safety Modernization Act by this overwhelming vote of 73 to 25, we have taken momentous steps to help strengthen food safety in America. The Food Safety Modernization Act will bring America's food safety system into the 21st century.

This bill gives the FDA the authority the agency needs to help protect America from foodborne illnesses. While this bill is a historic step forward in ensuring that our food supply is safe and protecting Americans from foodborne illnesses, we have to now ensure that the FDA has adequate resources to fulfill their profound responsibilities.

I look forward to working with my colleagues on the Appropriations Committee and the entire Senate to ensure that they have the necessary resources to fulfill the provisions of this legislation.

As the primary cosponsors of the bill, Senators DURBIN and GREGG deserve a great deal of thanks for their outstanding leadership. I asked Senator DURBIN when he started working on this bill. He said back in the House 18 years ago. So sometimes it takes a long time to get these things done. But this is the first time in 70 years we have ever had a major revision of our food safety laws. Senator GREGG has also worked at least a dozen years,

that I know of, on this bill in his time in the Senate. I would also like to thank my colleagues, Senator ENZI, the ranking member of the committee, former chairman and ranking member of the committee, for his help and also Senator BURR for working hard on the legislation and getting it where it is today.

Finally, I thank my friend, Senator DODD, for his tireless efforts. The Senate will certainly miss his leadership on this and so many other important issues. Additionally, I thank members of our staffs who helped to make this possible, and let me just—I am going to read their names, but let me say at the outset, while many of us were perhaps not around during Thanksgiving week or perhaps even the week after the elections, I can tell you the staffs were hard at work day after day, sometimes late in the evenings, sometimes on weekends, to help get this bill together. These staff people deserve so many thanks from not only me but from everyone involved with this legislation.

From Senator DURBIN's staff: Albert Sanders, Anne Wall, and Dena Morris; from Senator ENZI's staff: Chuck Clapton, Keith Flanagan, Travis Jordan, Frank Macchiarola, and Amy Muhlberg; Senator DODD's staff: Anna Station and Tamar Haro; Senator GREGG's staff has worked on this bill from the beginning: Elizabeth Wroe; Senator BURR's staff: Anna Abram and Margaret Brooks; Senator REED's staff: Carolyn Gluck and Kasey Gillette; and from my staff: Kathleen Laird, Tom Kraus, Bill McConagha, Mark Halverson, Jenelle Krishnamoorthy, Pam Smith, and Dan Smith. All of them are heroes and heroines in my book. They really put forth supreme effort to get this bill to us today so we could have this overwhelming vote of approval.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

TRIBUTE TO SENATOR RUSS FEINGOLD

Mr. MCCAIN. Mr. President, I want to say a few words about a friend and colleague whom I will miss very much when he leaves the Senate after we adjourn, Senator RUSS FEINGOLD. I cannot thank him for his service without mentioning the outstanding work of his capable staff: Mary Irving, his chief of staff; Sumner Slichter, his policy director; Bob Schiff, chief counsel; and Paul Weinberger, his legislative director, a loyal and outstanding team.

Without intending it as a commentary on his successor, I have to confess I think the Senate will be a much poorer place without RUSS FEINGOLD in it. I know that in my next term I will experience fewer occasions of inspiration because of the departure of RUSS FEINGOLD, a man whose courage and dedication to the principles that guided his Senate service often inspired me.

I will also miss the daily experience of RUSS FEINGOLD's friendship, and the qualities that distinguish his friendship, his thoughtfulness, kindness, humor and loyalty. I have treasured that friendship all the years we have served together, and while friendship does not end with a Senate career, I will sorely miss his presence. I will miss seeing him every day. I will miss traveling with him. I will miss the daily reminder of what a blessing it is to have a true friend in Washington.

Our first encounter with one another was in a Senate debate in which we argued about an aircraft carrier, somewhat heatedly, if memory serves. RUSS thought the U.S. Navy had one too many. I thought we did not have enough. It was, I am sorry to admit, not a very considerate welcome on my part to a new colleague, whom I would soon have many reasons to admire. But to RUSS's credit, he did not let my discourtesy stand in the way of working together on issues where we were in agreement. And to my good fortune, he did not let it stand in the way of our friendship either.

We are of different parties and our political views are often opposed.

We have had many debates on many issues. But where we agreed on wasteful spending, ethics reform, campaign finance reform and other issues, it was a privilege to fight alongside and not against RUSS FEINGOLD.

We do not often hear anymore about Members of Congress who distinguish themselves by having the courage of their convictions; who risk their personal interests for what they believe is in the public interest. I have seen many examples of it here, but the cynicism of our times, among the political class and the media and the voters, tends to miss examples of political courage or dismiss them as probable frauds or, at best, exceptions that prove the rule. In his time in the Senate, RUSS FEINGOLD, every day and in every way, had the courage of his convictions. And though I am quite a few years older than RUSS, and have served in this body longer than he has, I confess I have always felt he was my superior in that cardinal virtue.

We were both up for re-election in 1998. I had an easy race. RUSS had a difficult one. As many of our colleagues will remember, RUSS and I opposed soft money, the unlimited corporate and labor donations to political parties that we believed were compromising the integrity of Congress, and we were a nuisance on the subject. RUSS's opponent in 1998 was outspending him on television, and the race became tighter. It reached a point where most observers, Democrats and Republicans, expected him to lose. The Democratic Party pleaded with RUSS to let it spend soft money on his behalf. RUSS refused. He risked his seat, the job he loved, because his convictions were more important to him than any personal success. I think he is one of the most admirable people I have ever met in my life.

We have had a lot of experiences together. We fought together for many things, important things. And we have fought many times on opposite sides. We have been honored together and scorned together. We have traveled abroad together. We could not be farther apart in our views on the wars in Iraq and Afghanistan, but we traveled there together as well, to gain knowledge that would inform our views and challenge them. We have listened to each other; debated each other; defended each other; joked and commiserated together.

And in my every experience with RUSS FEINGOLD, in agreement and disagreement, in pleasant times and difficult ones, in heated arguments and in the relaxed conversation of friends, he was an exemplary public servant; a gentleman; good company; an irreplaceable friend; a kind man; a man to be admired.

I can not do justice in these remarks to all of RUSS's many qualities or express completely how much I think this institution benefited from his service here and how much I benefited from knowing him. I lack the eloquence. I do not think he is replaceable. We would all do well to keep his example in our minds as we serve our constituents and country and convictions. We could not have a better role model.

I have every expectation we will remain good friends long after we have both ended our Senate careers. But I will miss him every day. And I will try harder to become half the public servant he is. Because his friendship is an honor and honors come with responsibilities.

God bless my friend RUSS FEINGOLD.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN of Ohio. Mr. President, I want to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. The Senator has that right.

HEALTH CARE REFORM

Mr. BROWN of Ohio. Mr. President, I spent a lot of time, as my colleagues have, traveling our States during the elections, to be sure, but also since. I hear a lot of discussion from regular people—not from people running for office per se but regular people—about what this new health care law has meant to them. I meet 22-year-olds who are now on their parents' health insurance plan. If you are 22 in this country today, your chances of finding a job with decent health care are not real high in most places in our country, and

they now celebrate the fact that they can be on their parents' health insurance automatically. That is a big victory for consumers and a big victory for those families.

I also talk to people who have children who have preexisting conditions and could not get insurance as a result. The law now is, an insurance company cannot deny insurance to a family with a child with preexisting conditions. We also know now that someone who is sick and their health care is very expensive, that they cannot be thrown off their insurance because it costs the insurance company too much money.

We know now, and I hear from small businesses who almost all want to insure their employees but simply cannot because of the high costs, they now are getting a 30-percent tax credit to be able to insure their employees, something, as I said, they wanted to do whether they live in Conneaut in northeast Ohio or Middletown and Hamilton in southwest Ohio. I see that all over my State—in Bowling Green, in Toledo, in Zanesville and Chillacothe and Columbus and Bellaire. We are also seeing that so many senior citizens are getting hit hard by high drug prices.

We have begun. As one of the leaders in that effort on the HELP Committee, Senator BENNET, the Presiding Officer, knows that we have been helpful in now beginning to close that doughnut hole that seniors fall into. After they have had \$2,000 of drug costs, they are still paying the premium every month, but they do not get any coverage until their costs go above \$5,000. That is sort of a cruel bargain that this Congress, for reasons I did not exactly understand—I opposed it back then—passed the drug benefit and inflicted that on seniors. We are beginning to fix that.

We know all that. Those are citizens I talk to about that. Put that aside for a minute, unfortunately, and look at so many elected officials in a State, conservative elected officials, mostly Republicans, who are saying we should repeal the health care law and we should bring back preexisting condition, take 23-year-olds, home from college or home from the service or whatever, and if they do not have TRICARE, throw them off their parents' health care plan, take away the tax cuts to small businesses. That is what they want to do and repeal this health care plan.

My only question is, I guess I am waiting for the first Republican elected official—whether he is an attorney general in Ohio or elsewhere or whether he is a Congressman or she is a Congressman or a Senator—I am waiting for the first one who says: I want to repeal this plan. Take away these consumer protections; I want to repeal this plan and take away health insurance for people who are in high risk pools who are getting insurance now and people down the road who are going to get covered with health insurance, the 50 million Americans who do not have it and the tens of millions of Americans who are

underinsured. I want to hear one of those elected officials, who is saying repeal the health care plan, say they are not going to take their government health insurance. I cannot believe the number of elected officials, mostly Republicans, who have been the beneficiaries of government-sponsored health insurance—taxpayer-financed health insurance for 10 years, 20 years, 30 years—who are saying: No, I want to repeal health insurance for millions of Americans who are about to receive it. Some of them are already getting it; all of them getting better consumer protections.

They will keep their plan, paid for by taxpayers. They want to deny it to others. I am waiting for one of my colleagues—and Republicans around the State and around the country who are calling for this health care law to be repealed—to step up and say: Oh, I am not going to take government insurance either. I am still waiting for that day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

HOME BUYER TAX CREDIT

Mr. NELSON of Florida. Mr. President, if we want to revive our economy, one thing we can do is to bring back and extend the home buyer tax credit we enacted earlier this year. It was for a limited time. It has expired, but it was hugely successful.

It is an \$8,000 tax credit for qualified first-time home buyers and a \$6,500 tax credit for repeat, move-up home buyers. And this tax credit that we passed that was law was largely responsible for many of the homes that were purchased in States like mine, Florida, where the housing market has gone kaput. The mortgages were inflated when the housing bubble burst, the property values dropped and you see a number of our States that have been hit so hard, albeit, the entire Nation has been hit hard by the housing bubble bursting.

Well, we tried this home buyer tax credit, and it worked. It was popular in other States, like California, like in Texas. Texas had a more stable housing market, but folks recognized that a good housing market provides a lot of ancillary benefits for the economy. It creates jobs. It generates consumer spending. The studies have shown, looking back on this tax credit we gave for housing, it was in the first quarter of this year, it led to a 6-percent increase in all home sales, and it led to a whopping 42-percent increase in the sale of new homes.

Now by contrast, when that credit expired, the home sales plummeted. Well, what does it mean in real terms to real people and real families? It means jobs. It means jobs selling houses, jobs constructing houses, jobs financing houses—anything associated with a person having one of their most important assets, their home. And then

it means a lot of jobs about making all the things that go inside a house. And that's the kind of boost we need again.

We need again to get this economy moving. Now, since it has been shown to work because it generates home sales and purchases—in States where the real estate industry is a large part of the economy, in States where housing values have dropped, where many homes are underwater in the value of their fair market value now compared to the face amount of their mortgage in many communities that are distressed by foreclosures—and what community has not been hit by that?—what it does is it turns that around and boosts the home sales. That is a part of economic recovery. Now, there are those who are out there who are going to say: Well, it is too expensive. That it doesn't yield good results in certain parts of the country that were not hit with the housing crisis like the rest of us were. And some people will claim: Well, we're coming out of the recession—by their estimation—and it would be better to target our efforts elsewhere.

Mr. President, the recession's not over for many, many Americans. And if something has proven it works, why don't we reinstitute it? It was President Franklin Roosevelt who said, during another time of economic peril, the Great Depression, he said:

Only a foolish optimist can deny the dark realities of the moment.

Mr. President, do we not have the "dark realities of the moment" of what's happening in the State of the Presiding Officer right now, in my State, and many others? Indeed, these are dark economic times, and most every American knows it. Just look to the elections. In almost every exit poll after the election, 60 percent of the voters said the economy was the most important issue facing the Nation—that they were concerned about as they walked into that polling place. Forty percent of those same voters said their families are worse off financially than they were just a few years ago. And 33 percent of them said that someone in their household had lost a job recently. Is that not the "dark realities of the moment"?

So let's take something that worked. And despite the fact that it's costly, let's find an offset. Let's find another source of revenue to pay for approximately the \$15 to \$20 billion that the home buyer tax credit cost before that boosted the sales of homes and started to revive the housing industry and, therefore, revive the fair market values of people's homes. Let's move to quickly bring back this home buyer tax credit. It's worked before, and it will work again.

Mr. President, if I may be recognized again, since no one is waiting to speak.

The PRESIDING OFFICER. The Senator from Florida is recognized.

DISCLOSURE OF CLASSIFIED
CABLES

Mr. NELSON of Florida. Mr. President, America's secrets are not what are at risk with the exposure of thousands and thousands of documents of classified cables. America's friends and allies are at risk and, therefore, America's national security is at risk.

When classified cables identify certain people who have helped us from around the world as we advance the interests of the free world, defend our national security, and the safety of all humankind—when those people are exposed, there are a lot of bad people out there who want to get rid of those kind of people. When sources of information—I will dress it up and tell you exactly what it is; it is called intelligence—when sources of intelligence are betrayed by being made public, by the disclosure, indiscriminately, of thousands and thousands of cables that were marked “Top Secret” or marked “Secret,” then what we have done is we have started to shackle our arms behind ourselves in our ability to defend ourselves.

Why do I say that? Well, look at all the recent attempts at a terrorist act. We were able to avert the terrorist striking because we got the information that he was going to strike before he struck. Where did that source of information come? Often that source of information comes from far corners of the globe because we have a relationship with people who are giving us information that we then track down and find that, in fact, it is true and stop the terrorist from doing their dastardly deed upon innocent humans.

Since 2001 and the September 11th bombings and the September 11th crashes of the airliners, over and over again the newspapers of this country have chronicled terrorist plots that have been thwarted for the reasons I have just said. Now along comes someone who, for whatever reasons of being a misfit, wants to disgorge thousands of classified cables that start to betray our sources of information to protect ourselves and protect others—not even necessarily our allies—but other innocent victims in other countries with whom we may not even have a relationship.

This is the height of dishonoring our country and our people and all humankind, and it is the height of traitorous activity. It has to stop. We cannot continue to thwart these terrorist acts if we do not have reliable sources of information in order to disrupt the terrorist plots. Do you know what? The newspapers have chronicled, since the attempt, for example, of blowing up FedEx and UPS—and, by the way, those packages also were carried on commercial airliners with passengers on them—you know what the newspapers have chronicled? They have pointed out how the terrorist organizations are crowing about how little it costs them and how they will find another way in order to do this. As the

newspapers reported, we found out and stopped that plot by long-distance sources of information that came to us. To betray those sources, to now put their lives in jeopardy by the indiscriminate turning over to an organization called WikiLeaks that suddenly puts all of this up on the Web, is the height of irresponsibility, an act against humanity, and it has to be stopped.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

TAX POLICY

Mr. CASEY. Mr. President, I rise today to speak about our economy and some of the debates and discussions we are engaged in now about tax policy as well as to emphasize the need to be guided during these debates by the two essential priorities on which we must focus. Obviously, those priorities are job creation and continuing economic growth, continuing our recovery. We also must make sure that in the process of doing that, we don't take steps that will increase long-term deficits. So while we debate these many tax issues, I think it is critically important that we don't forget about provisions that both combat poverty and assist those who fall in the lower income brackets.

Last month, the Nation added over 150,000 jobs, which is strong evidence that we are slowly recovering from the devastating impacts of the recent recession. But we are certainly not out of the woods yet, and the Senate must continue to pass legislation that will spur economic growth as well as to focus on ways we can extend certain tax provisions that are set to expire this year.

The debate, unfortunately, has largely focused only on whether to extend the current income tax rates. I am 100 percent in favor of extending income tax rates for middle and lower income tax brackets. Now is not the time to raise taxes on those middle-income families who are still recovering from the recession. Plus, the more money we put in the pockets of those middle-income families means more money is being pumped into the economy through the purchase of goods and services. That is for sure, and I think we will even have consensus on that point alone.

Even as our recovery is slow, there have been a number of bright spots. One bright spot in the recovery is the rate of private sector hiring. In fact, according to the figures released by the Bureau of Labor Statistics, more private sector jobs have been created in 2010 when compared to the entire 8 years under President Bush. Private sector jobs decreased by 673,000 in the 8 years of President Bush's Presidency—a decrease of 673,000 private sector jobs. The increase I speak of occurred within this calendar year of 2010—an increase of 874,000 private sector jobs in 2010, and the year, of course, is not over yet.

The tax cuts for upper income folks implemented by President Bush had limited impact on jobs in those years, and the income tax breaks for upper income folks added hundreds of billions to our deficit. However, due to the current condition of the economy and to take every step necessary that we must take to continue the recovery, I believe it is imperative that we maintain certainty. That is what economists have talked to many of us about—to take steps not just to further economic growth and to continue to push forward the recovery but to do that in a way that creates some measure of certainty. Whether a small business owner—hundreds and hundreds of thousands across the country—or a large company, uncertainty and change often tend to make businesses less willing to expand and less willing to hire. Over the last few months, many of our colleagues in the Senate and I have spoken to both business owners and economists to get their views on how we should handle the expiring tax provisions. What I learned, among several lessons from these experts, is that certainty and consistency are needed when the economy is still in a fragile condition.

So I will have more to say as the debate continues about tax cuts, but during these discussions about the income tax cuts and what we should do between now and the end of the year, two important provisions have been barely mentioned: the child tax credit and the marriage penalty under the so-called earned-income tax credit. Both provisions provide necessary tax relief for those in the lower income brackets, and both provisions are necessary to help working families barely getting by for their children during this recession, at a time when poverty levels, unfortunately, are increasing. At this time, this Senate must act to provide tax relief to those who are in desperate need of assistance while they recover from the effects of the recession.

First, the child tax credit. This provides tax relief to working families with children of up to \$1,000 per child. The tax credit was first enacted in 1997 and was expanded last year in the Recovery Act to increase the number of families eligible to receive the credit. As a result of this expansion of the child tax credit, millions of previously ineligible families received critical relief during these tough economic times.

These expanded tax cuts will expire if they are not extended by the end of the year. Here are the numbers from the Center on Budget and Policy Priorities: 7.6 million children will lose their child tax credit if we don't continue it. An additional 10.5 million children will see those credits reduced or the credits their families receive reduced. In Pennsylvania, half a million children will lose that credit.

To put this in perspective, if you have a family with two children and earning minimum wage, that family

would see its child tax credit reduced by \$825. That is the equivalent of almost 3 weeks of pretax wages for a minimum wage worker—\$825—which would have an adverse impact even on a middle-income family, but to say that about a family earning the minimum wage I think speaks volumes about the impact of not extending the child tax credit. That would be a horrific result for a minimum wage-earning family.

This vital tax relief is necessary to help families struggling to provide their children with basic essentials. If that argument is not convincing enough for folks in the Senate as a reason to extend it, consider that the money that child tax credit results in will be spent immediately and go right back into local economies. It is the same argument we have made on unemployment insurance—that it has an impact on the overall economy.

The child tax credit is not the only poverty-fighting tax provision that is in jeopardy of being reversed. Enhancements to the earned-income tax credit are also set to expire. The so-called EITC—the earned-income tax credit—encourages and rewards work by providing a refundable credit for working people against their payroll and income taxes. Millions of working families with incomes of up to \$48,000 are eligible for the Federal earned-income tax credit.

The Recovery Act we passed in 2009 reduced the so-called marriage penalty in the earned-income tax credit by increasing the income level at which it phases out for married couples. If this expanded tax relief is not extended, 6 million workers will see their earned-income tax credit reduced and 11 million children will be affected. So children get harmed by both. They get harmed by the failure to extend the earned-income tax credit and the failure to extend the child tax credit.

So while the debate has been focused on the extension of tax rates on income, the Senate must not overlook sound tax policy that both fights poverty and spurs economic growth. So I would encourage all Members of the Senate to push for an extension of the provisions that expand eligibility for the child tax credit as well as the earned-income tax credit.

Finally, in addition to those tax provisions, we must not forget that today, November 30, 2010, is the day that federally funded unemployment insurance programs will expire. I encourage other Members of the Senate to not block legislation that will reauthorize unemployment insurance programs through the end of 2011—in other words, unemployment insurance to help the newly unemployed still suffering through and fighting through this recession.

If folks in the Senate block this legislation today—an extension of unemployment insurance—if they block it, I hope they will have an answer for the following question or two: What is your strategy to help these folks get

through this time when they have lost a job through no fault of their own? What are you going to do? What action are you going to take to try to help them?

That is one question. If you don't have an answer to that question, you should also have to answer this question: What are you doing affirmatively to put in place strategies to create jobs? Are you just talking about job creation, are you just talking about helping people, or are you going to take action to extend unemployment insurance or have something else that will help those who are going through this difficult period in their lives—many families who never dreamed they would be in this position—and are you going to do something to help the overall economy to grow and to continue the recovery? Because unemployment insurance does both. It helps the vulnerable get through this recession. It is the right thing to do. It also has a substantial, immeasurable impact on economic growth. All the studies show that. It is irrefutable that it is probably the best thing we can do to create jobs and to continue the recovery—pass a reauthorization of unemployment insurance.

So I encourage my colleagues to not block, but if they block, they need to have an answer to those basic questions.

In Pennsylvania, the unemployment rate now is 8.8 percent. Thank goodness it fell below 9, but 8.8 percent in our State means 560,000 people out of work. In the summer, it went as high as 592,000, so it was approaching 600,000. We have approximately 560,000 unemployed Pennsylvanians right now. We have to have an answer for those folks. We can't just say: Well, it got a little difficult in Washington, or put some other institutional or policy argument out there without having an answer or an alternative for those who are unemployed.

As have many of the Members of the Senate, I have discussed the impact of the expiration of unemployment insurance with folks in Pennsylvania and others who will be suffering through this. In the course of those discussions, we have had a chance to review what the impact would be on the economy as well as on Americans who have lost their jobs through no fault of their own.

There is one group we often don't mention. We talk about unemployment, jobless Americans and the economy. We often don't talk about the adverse impact specifically on children. Mr. President, 1 in 10 Pennsylvania children has an unemployed parent, and that is true across the country—roughly 1 in 10 in many States.

That translates to 265,000 children under the age of 18 in the Commonwealth of Pennsylvania who are directly impacted by unemployment—265,300 children who are affected just by unemployment. So as we address ways to improve the economic outlook

in our country and discuss the tax provisions, we must recognize the impact the economy has on our children.

I will end with a line from the Scriptures that says that “a faithful friend is a sturdy shelter.” It goes on to talk about how important having a faithful friend in life is. There are a lot of folks, politicians especially, who talk non-stop about helping children and the importance of doing that and the priority placed on our children and the priority to protect our children from harm and to help them especially in a recession. You have to do more than talk.

If you consider yourself a friend of children, you would support an extension of the child tax credit. You would support other provisions, such as unemployment insurance, that help families such as those families who have 265,000 children who are affected by unemployment in Pennsylvania. If you are going to say you are a faithful friend and want to be a sturdy shelter for children, what are you going to do about it?

The question we must ask ourselves, among many, is: Will the Senate be a faithful friend to children, not just by talk and rhetoric but by actions, taking steps to help children get through this recession, helping their families and also spur and continue economic growth and recovery?

With that, I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Tennessee is recognized.

COMMENDING RETIRING SENATORS

Mr. ALEXANDER. Mr. President, 16 Senators will retire this year. There is also a pretty big turnover in this body, but that is a lot of Senators at once. We are losing an enormous amount of talent, but, of course, we are gaining a lot of talent with the new Senators.

I wish to show my respect for those who have served, which I will do in a summary fashion because we are talking about 16 individuals with very complex and distinguished backgrounds.

One might ask, what are the characteristics of a Senator? There are a lot of different answers to that, depending on your background and attitude toward politics and government, I suppose. I have always thought that one characteristic of almost every Member of the Senate is that he or she probably was a first grader sitting in the front row, hand in the air waiting to be recognized. This is an eager bunch or you would not have gotten here.

Second, it is a group of risk-takers. Most people who end up in the Senate get here because a lot of other people who wanted to be Senators were standing around waiting for the right time to run. A lot of people who were elected to the Senate seemed to have no chance of winning at the time they decided to run, but the voters decided differently, and here they are.

A third characteristic of Senators is that we are almost all professional and

congenial. That is a big help. It is almost a requirement in an organization of 100 individuals who spend almost all their time with one another, who serve in a body that operates by unanimous consent, when just one Senator can bring the whole place to a halt, and whose job basically is to argue about some of the most difficult issues that face the American people. So it helps that almost every Member of the Senate is an especially congenial person.

Back in Tennessee, people often say to me it must be rough being in that job. They are awfully mean up there. The truth is, I don't know of a more congenial group than the Members of the Senate. We begin the day in the gym. The next thing you know we are at a Prayer Breakfast, and then we are at a committee hearing. Then we are on the floor voting, and then we have lunch. It goes through the day until 7 or 8 o'clock, or sometimes later. We live together and we get along very well. We know and respect each other.

Not long ago, the Presiding Officer and I were having dinner together with our wives. We were lamenting the loss of families who know one another, the way it happened when his father was serving in Congress and when I first came to the Senate to work for Senator Baker. And that's true. We've lost some of that. Still, there is an enormous amount of affection and goodwill here. You don't always get to be very close friends in this job, but you get to be very good acquaintances, and you learn to respect people for their strengths.

Senator Domenici said, when he left, that we don't do a very good job of saying goodbye here. That is true. As one part of saying goodbye, I wish to say at least one good thing about each one of the 16 retiring Senators. Much more could be said about each, of course. Mostly, I am going in alphabetical order.

First is Senator BOB BENNETT of Utah. I have known him the longest. We served together in the Nixon administration. I was in the White House working with Bryce Harlow, and he was in the Department of Transportation. That was in 1969 and 1970. What I will remember about BOB BENNETT—and most Senators will remember this about his legacy—are his careful expositions of economic issues. He has a background as an entrepreneur and businessman. He served with distinction on the Joint Economic Committee. His expertise in helping us better understand the economy has been valuable.

Senator EVAN BAYH is one of four Governors leaving the Senate. I am one who thinks the more Governors, the better. That is a somewhat parochial attitude on my part. But Governors have gotten results and are used to working across party lines. Governor BAYH served two terms as a Senator. Still young, he obviously has a long career ahead of him. Whatever direction he chooses to go in, what I will remem-

ber most about EVAN BAYH is the civility and bipartisanship he has shown on numerous occasions—and his courtesy to me as an individual Senator.

Senator KIT BOND, another Governor. He and I once served as law clerks on the Fifth Circuit Court of Appeals for two judges who helped integrate the South, Judges Tuttle and Wisdom. Senator BOND has a great many things that could be said about him. But what most of us admire greatly about his time here is his devotion to our intelligence community and national security, as vice chairman of our Intelligence Committee, making sure our intelligence agencies have the tools they need to prevent terrorist attacks on America.

Senator SAM BROWNBACK is going the other way, from Senator to Governor of Kansas. During the health care debate, I often said that everybody who voted for the health care law ought to be sentenced to serve as Governor for two terms and try to implement it. Well, Senator BROWNBACK voted against the health care law, but he's going home and will have the opportunity to "enjoy" all those unfunded mandates on Medicaid and see how Kansas deals with it. What we'll miss about SAM BROWNBACK, in addition to his extraordinary kindness, is his devotion to human rights, including giving voice to the oppressed people in North Korea and being an outspoken critic of the genocide in Darfur.

Senator JIM BUNNING. Everybody knows about him and baseball. Nobody would want to be a batter when he is throwing pitches. We understand he is the only person to strike out Ted Williams three times in one game. But what not as many people know about him is that JIM BUNNING has been a persistent leader in fighting for sick nuclear workers who served our country during the fifties and sixties and were sick because of their work in handling nuclear weapons. So JIM BUNNING deserves the thanks of all the families of the sick nuclear workers in America for his service here.

Senator CHRIS DODD. Children and families are his hallmark and legacy. He has been here a long time—five terms. But I have felt privileged to work with him on the Subcommittee on Children and Families. One thing we've focused on together is premature births, but he's also worked on a whole variety of other legislation. We will miss his congeniality, his good humor, and his devotion to the Senate as an institution, making sure it stays unique as a place where we have unlimited debate and unlimited amendments, so the voices of the American people can be heard.

Senator BYRON DORGAN. I once heard the Chaplain say there is no better storyteller in the Senate than Senator DORGAN. He didn't mean making up stories. He said he was good at taking what he figured was the truth and explaining it in ways the rest of us could understand. I have enjoyed working

with him on legislation that would make it easier to introduce electric cars and trucks in our country and reduce our dependence on foreign oil.

Senator RUSS FEINGOLD will be remembered for his strong stands—sometimes solitary stands—such as when he voted against the PATRIOT Act and went to work early on campaign finance. I thank him for our work together on the Africa subcommittee, on which he has served during his whole time here.

There is no better Senator than JUDD GREGG on either side of the aisle. One indication of that is that the last three leaders of Republicans in the Senate have asked him to sit in on leadership meetings to get his wisdom and advice. He doesn't say too much, but what he says we all pay attention to. He has been the voice of our party and we believe the voice of Americans who are concerned about fiscal responsibility, about spending, and too much debt.

Senator BLANCHE LINCOLN has been a pioneer throughout her career, as a staff member and a Congresswoman, and later as a Senator occupying Senator Hattie Caraway's desk, who was the first woman to be elected to the Senate. BLANCHE LINCOLN was the youngest woman ever to be elected to the Senate and left her mark with the passage of the 2008 farm bill.

ARLEN SPECTER from Pennsylvania. The word to describe him is "courage." The other word is "survivor." And they both go together. ARLEN has had a distinguished career from his youngest days. He was a member of the Warren Commission, investigating President Kennedy's assassination. In the Senate, his work has spanned the entire mark. One of the things I appreciate most about Senator and Mrs. SPECTER is their work on Constitution Hall in Philadelphia, which is such an example of living history.

Senator GEORGE VOINOVICH has been a mayor and a Governor and a Senator, a strong voice in concerns of federalism. Federal workers have GEORGE to thank for years of attention to issues involving Federal employees that most of us were too busy to pay as much attention to.

There have been four Members appointed to the Senate who are retiring, and that is quite a number.

Senator TED KAUFMAN of Delaware was a great teacher and a longtime Senate staffer before serving in the Senate himself.

Senator GEORGE LEMIEUX of Florida made his focus balancing the budget and controlling the debt. We have not heard the last of GEORGE LEMIEUX, I am sure, in politics.

Senator Roland Burris of Illinois was a State comptroller and attorney general. He is his own man, and capped off a long career in public service by serving here.

Senator Carte Goodwin, the youngest Senator who replaced the oldest in Senator Byrd. He was here only a few months, but we've enjoyed having him.

It has been my privilege to serve with these 16 Senators. We thank them for their service to our country. They have had a chance to serve in what we regard as the world's greatest deliberative body; it is a special institution. We will miss their leadership, and we hope they will stay in touch with us because they are not just retiring Senators, they are all our friends.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

WAR AGAINST THE MIDDLE CLASS

Mr. SANDERS. Mr. President, there is a war going on in this country, and I am not referring to the wars in Iraq or Afghanistan. I am talking about a war being waged by some of the wealthiest and most powerful people in this country against the working families of the United States of America, against the disappearing and shrinking middle class of our country.

The reality is, many of the Nation's billionaires are on the warpath. They want more, more, more. Their greed has no end, and apparently there is very little concern for our country or for the people of this country if it gets in the way of the accumulation of more and more wealth and more and more power.

Mr. President, in the year 2007, the top 1 percent of all income earners in the United States made 23½ percent of all income. The top 1 percent earned 23½ percent of all income—more than the entire bottom 50 percent. That is apparently not enough. The percentage of income going to the top 1 percent has nearly tripled since the 1970s. In the mid-1970s, the top 1 percent earned about 8 percent of all income. In the 1980s, that figure jumped to 14 percent. In the late 1990s, that 1 percent earned about 19 percent. And today, as the middle class collapses, the top 1 percent earns 23½ percent of all income—more than the bottom 50 percent. Today, if you can believe it, the top one-tenth of 1 percent earns about 12 cents of every dollar earned in America.

We talk about a lot of things on the floor of the Senate, but somehow we forget to talk about the reality of who is winning in this economy and who is losing. It is very clear to anyone who spends 2 minutes studying the issue that the people on top are doing extraordinarily well at the same time as the middle class is collapsing and poverty is increasing. Many people out there are angry, and they are wondering what is happening to their own income, to their lives, to the lives of their kids.

If you can believe this, since between 1980 and 2005, 80 percent of all new income created in this country went to the top 1 percent—80 percent of all new income. That is why people are wondering and asking: What is going on in my life? How come I am working longer hours for lower wages? How

come I am worrying about whether my kids will have as good a standard of living as I had? From 1980 until 2005, 80 percent of all income went to the top 1 percent.

Today, the Wall Street executives—the crooks on Wall Street whose actions resulted in the severe recession we are in right now; the people whose illegal, reckless actions have resulted in millions of Americans losing their jobs, their homes, their savings—guess what. After we bailed them out, those CEOs today are now earning more money than they did before the bailout. And while the middle class of this country collapses and the rich become much richer, the United States now has by far the most unequal distribution of income and wealth of any major country on Earth.

Mr. President, when we were in school, we used to read the textbooks which talked about the banana republics in Latin America. We used to read the books about countries in which a handful of people owned and controlled most of the wealth of those countries. Well, guess what. That is exactly what is happening in the United States today. And apparently the only concern of some of the wealthiest people in this country is more and more wealth and more and more power—not all of them, by the way. Not all of them. There are many wealthy people in this country who understand and are proud to be Americans, who understand that one of the things that is important is that all of us do well. And this is an issue—greed is an issue—we have to deal with.

In the midst of all of this growing income and wealth inequality in this country, we are now faced with the issue of what we do with the Bush tax cuts of 2001 and 2003. And if you can believe it, we have people here—many of my Republican colleagues—who tell us: Oh, I am so concerned about our record-breaking deficit. I am terribly concerned about a \$13.7 trillion national debt. I am terribly concerned about the debt we are going to be leaving to our kids and our grandchildren. But wait a minute. It is very important that we give, over a 10-year period, \$700 billion in tax breaks to the top 2 percent. Oh yeah, we are concerned about the debt, we are concerned about the deficit, but we are more concerned that millionaires—people who earn at least \$1 million a year or more—get, on average, \$100,000 a year in tax breaks. So we have a \$13.7 trillion national debt, and growing, we have growing income inequality—the top 1 percent earning more income than the bottom 50 percent—but the highest priority of many of my Republican colleagues is to make sure millionaires and billionaires get more tax breaks. I think that is absurd.

But it is not only income tax rates that we are dealing with; it is the estate tax as well. And let's be clear. While some of my friends want to eliminate completely the estate tax—

which has been in existence in this country since 1916—every nickel of all of those benefits will go to the top three-tenths of 1 percent. If we did as some of my friends would like—eliminate the estate tax completely—it would cost us \$1 trillion in revenue over a 10-year period, with all of the benefits going to the top three-tenths of 1 percent.

So I am sure that in a little while my friends will come to the floor and say: We are very concerned about the deficit, we are very concerned about the national debt, but do you know what we are more concerned about? Giving huge tax breaks to the wealthiest people in this country.

Mr. President, the tax issue is just one part of what some of our wealthy friends want to see happen in this country. The reality is that many of these folks want to bring the United States back to where we were in the 1920s, and they want to do their best to eliminate all traces of social legislation which working families fought tooth and nail to develop to bring a modicum of stability and security to their lives.

There are people out there—not all, but there are some—who want to privatize or completely eliminate Social Security. They want to privatize or cut back substantially on Medicare. Yes, if you are 75 years of age and you have no money, good luck to you getting your health insurance at an affordable cost from a private insurance company. I am just sure there are all kinds of private insurance companies out there just delighted to take care of low-income seniors who are struggling with cancer or another disease.

Furthermore, there are corporate leaders out there, and many Members of Congress, who not only want to continue but they want to expand our disastrous trade policies. My wife and I went shopping the other day—started our Christmas shopping—and we looked and we looked, and virtually every consumer product that was out there in the stores was China, China, and China. We seem to be a country in which we have a 51st State named China which is producing virtually all of the products we as Americans consume.

Our trade policy has resulted in the loss of millions of good-paying jobs as large corporations and CEOs have said: Why do I want to reinvest in America when I can go to countries where people are paid 50 cents, 75 cents an hour? That is what I am going to do; to heck with the working people of this country. So not only are we saddled with this disastrous trade policy, but there are people who actually want to expand it.

One of the things we are going to see is while we struggle with a record-breaking deficit and a large national debt—caused by the wars in Iraq and Afghanistan, caused by tax breaks for the wealthy, caused by an unpaid-for

Medicare Part D prescription drug program, caused by the Wall Street bailout driving up the deficit, driving up the national debt—some people will say: Oh my goodness, we have all those expenses, and then we have to give tax breaks to millionaires and billionaires, but we want to balance the budget. Gee, how are we going to do that?

Obviously, we know how they are going to do that. They are going to cut back on health care, they are going to cut back on education, they are going to cut back on child care, and they are going to cut back on Pell programs. We just don't have enough money for working families and nannies. We are going to cut back on food stamps. We are surely not going to expand unemployment compensation. We have a higher priority, Mr. President: We have got to, got to, got to give tax breaks to millionaires. I mean, that is what this place is all about, isn't it? They fund the campaigns, so they get what is due them.

Amazingly enough, we have the CEOs on Wall Street and the large financial institutions that want to rescind or slow down many of the provisions—the very modest provisions—in the financial reform bill. I voted for the financial reform bill, but I will tell you clearly that it did not go anywhere near far enough, but it went too far for our Wall Street friends and their lobbyists, who are all over here. And for the hundreds of millions of dollars Wall Street spends on this place, they want to rescind, slow down some of the reforms there.

These people want to cut back on the powers of the EPA and the Department of Energy so that ExxonMobil can remain the most profitable corporation in world history while oil and coal companies continue to pollute our air and our water. Last year, ExxonMobil made \$19 billion in profit. Guess what. They paid zero in taxes. They got a \$156 million refund from the IRS. I guess that is not good enough. We have to give the oil companies even more tax breaks.

So I think that is where we are. We have to own up to it. There is a war going on. The middle class is struggling for existence, and they are taking on some of the wealthiest and most powerful forces in the world whose greed has no end. And if we don't begin to stand together and start representing those families, there will not be a middle class in this country.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

COMMENDING SENATOR BOB BENNETT

Mr. HATCH. Mr. President, I rise today to recognize the retirement and the departure of my great friend, BOB BENNETT. Senator BENNETT and I have jointly represented the State of Utah for many years. We are close. During that time, we have worked together as partners, collaborators, but most of all

as good friends. BOB's presence in the Senate is going to be sorely missed.

Senator BENNETT is a lot of things. He is honest, he is thoughtful, he is knowledgeable. But more than anything else, Senator BENNETT is a fighter for the people of Utah. BOB has served with unwavering devotion to our State, its people, and its interests. Throughout his 18 years in the Senate, the State of Utah has been foremost in BOB's thoughts, and I don't believe he has made a single decision he didn't believe was in the best interests of our State and of our Nation.

Senator BENNETT is the son of Frances and Wallace F. Bennett. Wallace F. Bennett, we should all remember, was also a great U.S. Senator from Utah who served four terms between 1951 and 1974. I think that is accurate. BOB is also the grandson of Heber J. Grant, the seventh President of the Church of Jesus Christ of Latter-day Saints.

After attending East High School in Salt Lake City, BOB graduated from the University of Utah, where he was elected the student body president and obtained a degree in political science in 1959. His first political job was managing his father's 1962 successful reelection campaign. BOB then spent several years working as a Mormon chaplain in the Utah Army National Guard before becoming a chief congressional liaison at the U.S. Department of Transportation.

After his time at the Transportation Department, Senator BENNETT moved on to a successful career in public relations. For over a decade, he presided over some of the most successful and high-profile public relations organizations in the country. He became well known for his hard work, his leadership ability, and his entrepreneurial prowess. This was solidified in 1984 when BOB was named the CEO of the Franklin International Institute, which is now known as Franklin Covey. Franklin Covey is now one of the premier personal and organizational effectiveness firms in the world. The products and services provided by the company impact literally millions of people every year.

But when BOB joined the company they had only four employees. During his tenure that number grew to over 1,000. By the time he left to run for the Senate, the company was listed on the New York Stock Exchange. It was at that time an already thriving corporation, a world leader in its industry, thanks in no small part to BOB's leadership. For his efforts, BOB was named Inc. Magazine's Entrepreneur of the Year for the Rocky Mountain region.

BOB was elected to the Senate in 1992 after a hotly contested Republican primary and a hard-fought general election. His father—once again, the great Senator Wallace F. Bennett—lived just long enough to see his son win an election and serve in the Senate for almost a full year. I know that must have been a great source of pride for the senior Senator Bennett and his family.

Over his 18 years in the Senate, BOB has continued to demonstrate sound

judgment and strong leadership. Republican Senators have considered him a trusted resource when it comes to strategy and policy. He has been a consistent resource for those who seek thoughtful answers to difficult political questions. For these reasons, among others, BOB has served on the leadership teams of our current minority leader, Senator MCCONNELL, as well as his predecessor, Senator BILL FRIST.

While he is more well known for his quiet, contemplative demeanor, Senator BENNETT has always been an outstanding orator. He comes often to the floor to discuss various issues at length, rarely reading from notes and almost never skipping a beat. His contributions to our debates in the Senate have always been very valuable, and I think people on both sides of the aisle will acknowledge that and have appreciated the type of advocacy he has brought to the floor of the Senate—always courteous, always well thought out, always reasonable, and always, in my opinion, right.

As I mentioned before, I know few Senators who can match Senator BENNETT's commitment to the people he represents. Every single person in the State of Utah has benefited from the work of Senator BENNETT. One cannot ride on a train or drive on a freeway in Utah or avail oneself of so many other assets and attributes in Utah without seeing the results of Senator BENNETT's service in the Senate.

Our State has seen a lot of growth in recent years due to the expansion of our population and the fact that more and more companies have recognized that Utah is a great place to do business. Utah's infrastructure has for the most part been able to keep pace with the rapid growth, thanks in large measure to the work of Senator BENNETT.

I will miss working with Senator BENNETT to help the people of our State, but I will miss him more as a friend. BOB and his wonderful wife Joyce—and she has been a tremendous companion to him, tremendous helpmate to him over these years—have been married for 48 years. They have 6 children and 20 grandchildren. I know every one of them is proud of the great service BOB has rendered to his country and the Senate, and they should be. I too am so pleased and proud of my friend, Senator BENNETT, and I am certain that BOB will be successful in any endeavor he chooses in the future upon leaving the Senate.

BOB BENNETT is a wise counselor. He is a truly honest man. He cares not only for the people he represented but everybody in this country and many people throughout the world.

He lives his religious beliefs. Other than family, I can't compliment anybody more than that. He lives his religion. He is exemplary. He is one of the most thoughtful people I have ever known. I value his friendship and I

value his advice and I have valued it over these years that we have served together. He has always been a serious and productive leader who also has a tremendously great sense of humor. After all is said and done, he is a great father, grandfather, husband, and friend—just to mention a few.

BOB will be successful in whatever he chooses to do. He is a good man. I personally will miss him. I think everybody in the Senate will miss him, and I believe it is safe to say everybody in Utah will miss him as well—some more than others. Nevertheless, if they look at his record and they look at the things he has done for our State, for our people, they are going to thank God that BOB BENNETT was a Senator for 18 solid years. I personally thank the Father in Heaven for having him here as a partner to me, as a friend, and as somebody on whom I could rely and with whom I could counsel on some of these very earthshakingly important matters that come before our Senate.

I have such a great opinion of BOB BENNETT, I don't think even he has known—maybe not until today—how great that opinion has been. I think the world of him. I love him as a human being, and I wish him the very best, he and his family.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I am embarrassed and humbled and gratified by the comments of my senior colleague, Senator HATCH. My wife has said, by virtue of our retirement from the Senate: It is a little like going to your own funeral. You are hearing all of the eulogies but you are still alive.

We, indeed, are planning a significant life and activity after the Senate. I will have more to say about that at some other time. But I want to express my gratitude to Senator HATCH for the kind words he has spoken, but more importantly for the relationship we have developed in the time we have served together.

We did not know each other very well prior to my running for the Senate. He was a Senator off in Washington; I was a businessman in Utah. We had little occasion to see our paths cross and become acquainted.

One of the things I will treasure the most out of my experiences in the Senate has been the opportunity to come to know ORRIN as a friend, as a dedicated legislator, and a role model and mentor. He has guided me many times when I needed some guidance. We have disagreed sometimes when that was appropriate given our particular positions on an issue or two, but always I have been able to look to ORRIN HATCH as a mentor, a friend, someone upon whom I could depend.

In the recent election when there were those who were suggesting that maybe ORRIN should distance himself from me for his own political benefit, I am gratified by the fact that he not only refused to do that but until the

very end did everything he could throughout the State to see to it that I was triumphant in that election.

It turned out I was not, as far as the convention is concerned, but elections and conventions are not the be-all-and-end-all of life. I will go on to other activities, but I will hang onto my friendship with ORRIN HATCH and continue my respect and love for him in the years to come.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRANKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRANKEN. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

NEW START TREATY

Mr. FRANKEN. Mr. President, I rise today to speak once again about the New START treaty. Today I will talk about the New START treaty and the maintenance of a safe, secure, and effective nuclear deterrent. That means maintaining and sustaining the nuclear weapons stockpile and delivery platforms; modernizing the buildings and equipment in the nuclear weapons complex; and supporting the experts and scientists who are involved in it.

I would like to preface my remarks by underlining the urgency for the Senate to ratify the treaty. How can it be that we do not have a treaty with Russia in place, along with its verification regime 360 days after the expiration of the original START treaty? That is more than 6 months after the administration submitted the treaty to the Senate.

The verification regime will provide crucial insight into Russian forces, insight that is degrading over time without the treaty in place. We need to ratify this treaty now.

For decades, our relations with the Soviet Union, and now with Russia, have been stabilized and made more predictable and cooperative through arms control agreements. How can it be that now, when Russia is no longer our enemy and yet not our ally, my friends across the aisle are refusing to move forward on ratifying a modest treaty that is critical for our national security?

If consideration of the treaty is delayed or blocked, it will make cooperation with Russia on national security interests much more difficult, if not impossible. Do you seriously believe that, if you block or reject the treaty, we will see Russia's continued cooperation with international sanctions on Iran? Are you not concerned that Russia will reconsider its prohibition on the sale of the S-300 anti-air defense

missile systems to Iran, as it did in September?

And why put the Nunn-Lugar Cooperative Threat Reduction Program at risk? Senator LUGAR himself has warned that failure to ratify the treaty could imperil that enormously successful program in securing loose nukes.

If this modest treaty is blocked by the minority, I do not believe my friends on the other side will be pleased with the consequences.

Many of my colleagues on the other side of the aisle want to see negotiations with Russia on reductions in tactical nuclear weapons. I agree. That is going to be a difficult task under any circumstances. But as our lead negotiator Rose Gottemoeller said recently, there is zero chance of getting to the negotiating table with the Russians on tactical nuclear weapons unless we get this treaty ratified and entered into force.

It is also important to note that my colleagues on the other side of the aisle have been delaying consideration of the treaty for some time. Back in August, Senator MCCONNELL said, "The only way this treaty gets in trouble is if it's rushed." And Senator KYL told reporters that since it could be hard to get everything done before the November election, the Senate might need a lame-duck session to vote on New START.

The administration and Chairman KERRY deferred to those Republicans, but now those same colleagues are saying we can not do it during the lame-duck session. To them, I say, if not now, when? If we defer and delay further, we risk a collapse in relations with Russia, including the loss of their continued cooperation on the all-important Iran issue.

Now, the remaining major objection to ratification that Republicans have raised is not a feature of the treaty itself, but maintenance and modernization of our nuclear arsenal and complex.

There is bipartisan agreement that as our nuclear arsenal gets smaller through arms control agreements, ensuring that it remains safe, secure, and effective takes on added importance. From my perspective that is the fundamental justification for nuclear modernization. And I agree with Senator KYL, who emphasized in a floor statement, and I quote, the "direct link between nuclear force reductions and modernization of the U.S. nuclear weapons complex." Likewise, Senator MCCAIN has noted that, "as we move to reduce the size of our nuclear stockpile, this modernization effort becomes all the more important."

The Obama administration has made a serious commitment to nuclear modernization, and they have paired it with arms control. We have an extensive set of programs in place to retain confidence in the stockpile without testing. We are extending the life of our current nuclear delivery vehicles and studying, planning, and beginning

the next generation. And we are continuing to develop plans for major improvements in the complex of facilities that support the nuclear enterprise.

I support the administration's approach to modernization tethered to arms control. Now I have to admit, in these tough economic times, I do have concerns with spending \$85 billion on an enormous nuclear complex, that is a staggering amount of money. Without a commitment to arms control and nonproliferation, it is impossible to justify spending that much money. This is the 21st century, not the cold war, and our needs are different.

That is why I will not support this massive investment in modernization without an equal commitment to arms control and nonproliferation. That is why earlier this year I joined several colleagues in writing to the Budget Committee in support of the administration's massive Fiscal Year 2011 request for the National Nuclear Security Administration, or NNSA.

I will continue to fight for nuclear modernization paired with arms control. But they must be paired. Our national security requires it. And political reality requires it.

That is what the Congressional Commission on the Strategic Posture of the United States, better known as the Perry-Schlesinger Commission, made clear. The Commission's report has been the main touchstone on all sides of the debate over New START.

The December 15, 2009 letter to the President from 41 of my colleagues, including all the members of the minority, relies heavily on the Commission's recommendations in spelling out its requirements for the treaty and modernization. Senator McCain's September 14 letter to the Foreign Relations Committee relies on the Commission's perspective on the modernization of the nuclear complex. Senator Kyl's May 24, 2010, floor speech on New START also makes prominent reference to and endorses the Commission's report.

Here is the first page of the report's Executive Summary:

"While deterrence plays an essential role in reducing nuclear dangers, it is not the only means for doing so, and accordingly the United States must seek additional cooperative measures of a political kind, including for example arms control and nonproliferation. This is a time when these approaches can be renewed and reenergized."

Not only deterrence, but also arms control and nonproliferation. We must be committed to both together. That is why the Commission goes on to say, "These components of strategy must be integrated into a comprehensive approach."

It is just such a comprehensive approach that the administration has taken. In its very first recommendation, the Commission warns of the importance of maintaining both components of strategy:

The United States should continue to pursue an approach to reducing nuclear dangers

that balances deterrence, arms control, and nonproliferation. Singular emphasis on one or another element would reduce the nuclear security of the United States and its allies."

I submit that the administration and those of us who have pushed nuclear modernization in good faith, to support deterrence and nonproliferation and arms control, are following this recommendation. Those who have held the New START treaty hostage to ungrounded complaints about modernization and ever-changing demands are not.

I believe many of my colleagues on the other side will vote for this treaty. They understand that it is modest but also important, and they will put national security ahead of partisan political pressures. But if a small number of Republicans continue to delay and block this treaty, they will be responsible for the disintegration of the consensus on nuclear modernization, and the complex and arsenal will once again become subject to controversy, dispute, and drift. That is just the reality.

It is true that Republicans have broadly questioned the administration's commitment on nuclear modernization. But their criticisms do not stand up to scrutiny.

Thus, Senator Kyl's criticisms of the Obama administration's pledge to spend \$100 billion to maintain and modernize nuclear delivery systems, that is right, \$100 billion, is that "the plan makes a commitment only to a next-generation submarine, not to a next-generation bomber, ballistic missile, or air-launched cruise missile."

This makes it sound like the administration lacks commitment to a credible deterrent, but that is just not true. Where decisions need to be made now, the administration has made them, with respect to the SSBN(X), the next-generation submarine. Where decisions would benefit from further consideration, and do not need to be made now, that is what is happening.

The administration is undertaking a comprehensive set of assessments of 21st century threats and needs, and it will then make decisions on what follows the Minuteman III, the Air-Launched Cruise Missile, and the B-52 and B-2.

The Minuteman III missile is, by congressional mandate, having its life extended through 2030. Studies to inform the decision about the follow-on are needed now, and they are happening.

Similarly, the Department of Defense is studying the right mix of long-range strike capabilities, and part of that will be the appropriate role for successors to the Air-Launched Cruise Missile and the bomber. The decision with respect to our bombers can be made in the future because the bombers, though old, don't get that much stress and still have a lot of life left in them. The same is true for the Air-Launched Cruise Missile, though a decision on what will follow next needs to be made sooner.

The decision on our long-range strike capabilities should be deferred in part because, as the Under Secretary of Defense recently explained, the DoD will seek the same productivity growth and cost savings here as it is pursuing with the SSBN(X) submarine.

On the nuclear stockpile, the administration, with congressional support, is moving forward with the ongoing Life Extension Program for the W76 and with studies for the B61 Life Extension Program. It will also conduct a similar study for the W78, including exploring the potential for a common system with the W88 warhead.

Some of my Republican friends have complained that the administration's policy for the refurbishment, reuse, and replacement of nuclear components in the warheads unduly constrains the work of scientists in the nuclear complex. This is not so, as the lab directors have testified. These lab directors are on the frontlines of maintaining and modernizing the stockpile, and they will have the flexibility they need.

Then there is the nuclear complex. In the 10-year plan the administration submitted under section 1251 of last year's defense authorization, the administration made an historic investment in the nuclear complex. It set a dramatically higher baseline for fiscal year 2011. It included several years of funding increases consistent with what the NNSA can absorb and execute. And over 10 years, it initially committed to an \$80 billion investment in the nuclear complex, a \$10 billion increase.

Now, the Democratic Congress took the extraordinary step this past September of including funding at the full fiscal year 2011 level for weapons activities in the continuing resolution we passed. Almost everything else in the continuing resolution stuck to 2010 levels.

The nuclear complex is one of the most controversial parts of the debate over nuclear modernization, particularly the prospect of replacing two major facilities. The first is the chemistry and metallurgy research facility replacement at Los Alamos, which is central to our plutonium capabilities. The second is the uranium processing facility at the Y-12 plant in Tennessee.

Republicans have complained that there is uncertainty and not enough funding for these two replacement projects. But the administration's budget has shown a significant commitment. Where there is uncertainty, it is not due to a lack of commitment on the administration's part, but simply because the design and planning processes for these facilities are in an early phase.

We simply do not know what construction of the facilities is going to cost, and that is something the fiscal year 2011 budget submission from NNSA makes abundantly clear. To budget as though we did know those costs would be irresponsible—especially for an agency that has historically been plagued by cost overruns. It

is simply too soon to have a solid baseline planning number.

To be sure, the administration has been updating and revising its plans and estimates. Two weeks ago, it released an update to its section 1251 report with a revised, substantially higher cost estimate for both replacement facilities.

It also included yet more funding for the NNSA's overall budget. The administration has proposed an additional \$600 million in funding for fiscal year 2012 and an additional \$4.1 billion over the next 5 years. That brings the total for the next decade to \$85 billion. This both serves as a reminder that it is too early to have a fixed budget for the new facilities, and also strongly reinforces the administration's good-faith effort and commitment.

This brings me back to my fundamental point. I believe that support for the two new facilities can be sustained if we follow the path laid out by the Perry-Schlesinger Commission and pursued by the administration. This means balancing deterrence, arms control, and non-proliferation. The reality is that there will be significant questions and doubts about proceeding with such a costly modernization effort if it is not accompanied by equal support for arms control and non-proliferation.

There is no doubt that the existing facilities are aging and run down. There are even safety problems. Something must be done.

But if we are going to move forward effectively, modernization must be paired with arms control. And that starts with a modest first step—ratification of the New START.

Without that step, consensus will break down, the replacement facilities will once again lose a coherent mission, and we will be stuck with drift and controversy. The Perry-Schlesinger Commission recognizes that if it is not possible to sustain the budget requisite for both facilities concurrently, choices will have to be made.

They give powerful reasons for moving forward with the chemistry and metallurgy research facility before the uranium processing facility. That is the kind of tough choice we will have to make if New START is not ratified. Similarly, real uncertainty will creep into the consideration of just what sort of project the chemistry and metallurgy research facility should be.

Let me conclude by noting that the administration and the Democratic Congress have met every demand that many of my friends across the aisle have made on modernization. To my friends on the other side, I say, look at the demands in the December 2009 letter that you all signed. The administration has met each of those demands.

Look at what Senator KYL said in an op-ed in July: "A key test is whether the Democratic-controlled Congress will approve the president's nuclear modernization requests for the coming fiscal year." We passed that test, and as I mentioned earlier under an otherwise flat-lined continuing resolution.

In that same piece, and in his March letter with Senator MCCONNELL to the

President, Senator KYL indicated he wanted assurances that the fiscal year 2012 budget would include adequate funding as well. Although next year's budget is not due out until February, as I mentioned before, the administration has already announced what it will be requesting, and it will be another enormous increase in the weapons activities budget. Can there really be any doubt that the administration will move aggressively forward with modernization—if Republicans take the first modest step of ratifying New START now?

We have passed our key test. The administration has met the demands Senator KYL had laid out. Now the key test for Senator KYL and others is whether they will join us in ratifying the New START. If they don't do that now, the consensus that we have built will fall apart. Our national security will be put at risk. And we will return to the dark days when the nuclear enterprise was the subject of neglect and controversy.

The New START is a modest but very important step. It is one we should all take together, without controversy.

I thank the Chair, and I yield the floor.

RECESS

Mr. FRANKEN. Mr. President, I ask unanimous consent that the Senate now stand in recess for the weekly caucus meetings, as provided under the previous order.

There being no objection, at 12:21 p.m., the Senate recessed until 4 p.m. and reassembled when called to order by the Presiding Officer (Mr. BENNET).

The PRESIDING OFFICER. The Senator from Connecticut.

FAREWELL TO THE SENATE

Mr. DODD. Mr. President, first of all, let me express my gratitude to all of the colleagues and other individuals who have come to the Chamber at this moment.

Everyone who serves in Congress usually recalls two moments in their service: the maiden speech they give shortly after their arrival and their closing remarks. I can't recall what the first speech I gave as a new member of the House of Representatives 36 years ago was even about. I do, however, recall very vividly that there was no one else in the Chamber when I gave it. It was an empty hall early one evening with the exception of one colleague, Johnny Dent from Pennsylvania. He was sitting in his chair with his trademark dark glasses, listening patiently as I gave my knee-rattling, hand-shaking maiden address. Midway through the speech, he walked up to me and said quietly: You know, kid, it is not on the level. Well, that was my first speech before the House, and I am deeply honored that so many of you have come out to listen to my closing remarks today so I do not have to speak to an empty Chamber.

For more than 200 years, a uniquely American story has unfolded here in

the Chamber of the United States Senate—a fascinating, inspiring, often tumultuous tale of conflict and compromise, reflecting the awesome potential of our still-young democracy and its occasional moments of agonizing frustration.

For much of my life, this story has intersected with my own in ways that have been both thrilling and humbling. As a 14-year-old boy, I sat in the family gallery of this very Chamber watching as my father took the oath of office as a new Senator. A few years later, in 1962, I sat where these young men and women sit today, serving as a Senate page. John F. Kennedy was President and Lyndon Johnson presided over this body. Eighteen years later, in the fall of 1980, the people of Connecticut gave me the honor of a lifetime when they asked me to give voice to their views, electing me to serve as their U.S. Senator. For the past 30 years, I have worked hard to sustain that trust. I am proud of the work I have done, but it is time for my story and that of this institution, which I cherish so much, to diverge. Thus, Mr. President, I rise to give some valedictory remarks as my service as a U.S. Senator from Connecticut comes to a close.

Now, it is common for retiring Senators to say the following: I will miss the people but not the work. Mr. President, you won't hear that from me. Most assuredly, I will miss the people of the Senate, but I will miss the work as well. Over the years, I have both witnessed and participated in some great debates in this Chamber, moments when statesmen of both parties gathered together in this Hall to weigh the great questions of our time. And while I wish there had been more of those moments, I will always remember the Senate debates on issues such as Central America, the Iraq war, campaign finance reform, securities litigation, health care, and, of course, financial reform.

And when I am home in Connecticut, I see the results of the work we did every day. I see workers coming home from their shifts at Pratt & Whitney, Electric Boat, the Sikorsky helicopter plant—the lifeblood of a defense manufacturing sector so critical to our national security and to the economic well-being of my home State. I see communities preparing for high-speed rail and breaking ground for new community health centers. I see the grants we fought for helping cities and towns to build sustainable communities and promote economic development.

When I am home, I meet parents who, because of the Family and Medical Leave Act, don't have to choose between keeping their jobs and taking care of their sick children. I visit with elderly folks who no longer have to choose between paying for their prescription drugs and paying for their heat. I hear from consumers who have been victimized by unfair practices on

the part of credit card companies and who will no longer be subject to those abuses. And I meet young children as well who, through Early Head Start or access to afterschool programs, have blossomed academically in spite of difficult economic circumstances.

As proud as I am of the work that has made these stories possible over the last three decades, I am keenly aware, particularly today, that I did not do any of this alone. Until this last Congress, with rare exceptions, every major piece of legislation I authored that became law—including the ones I have just mentioned—had a Republican cosponsor as well as support from my Democratic caucus. So to my Democratic and Republican Senate colleagues who joined me in all these efforts over 30 years, I say thank you this afternoon.

I also want to thank, if I can, the unsung heroes of this institution—the Senate staff and my personal staff. It would be a grievous understatement to simply say they make the trains run on time. Without them, as all of us know, the trains would never leave the station at all—the floor staff, the cloakroom professionals of both parties, and the hundreds of unknown and unseen people who show up every day in this body to make this critical institution of democracy function. Without them, no Senator could fulfill his or her obligations to the American people.

Many of my personal staff and committee staff are present in the Senate gallery today. Neither I nor the millions of Americans whose lives you have enriched or whose burdens you have lightened can ever thank you enough. I only hope your time with me has been as fulfilling as my time with you.

Of course, I owe an enormous debt of gratitude to the people of Connecticut, whose confidence, patience, and spirit have given my life and its work deep meaning. As rich as our common language is, words cannot even come close to capturing the depth of my affection for and appreciation of the people of the State of Connecticut. For almost four decades—three terms in the House of Representatives, five terms in this Chamber—you have entrusted me to labor on your behalf, and I deeply thank you for that honor.

And lastly, my family. My parents are long since deceased, but their guidance, inspiration, and example have never departed. For the past 30 years, I have sat at this very same desk occupied by my father during the 12 years he served in this Chamber. His courage, character, and conviction have been a constant reminder of what it means to be a U.S. Senator. I thank my siblings and their children and other relatives for their enthusiastic support, particularly during the rough patches. From time to time, we all need the safe harbor of family at the darker moments. And to Jackie, Grace, and Christina, who have supported and inspired me every day: You mean more to me than

I could ever say in these few short moments. So come January, I am glad I will have more time to say it to you more often. And to Jackie in particular: You have been my anchor to windward in the rough and turbulent waters of public service. When it was the darkest, you were the brightest. I love you more than life.

As this chapter in my career comes to a close, a new chapter in the Senate's history is beginning. When this body is gavelled to order in January, nearly half of its Members will be in their first term. And even though I could spend hours fondly recalling a lifetime of yesterdays, this new Senate and the Nation must confront a very uncertain tomorrow. So rather than recite a long list of personal memories or to revisit video highlights of my Senate service, I would like to take this brief time, in these few short moments, to offer a few thoughts to those who will write the Senate's next chapter.

I will begin by stating the sadly obvious. Our electoral system is a mess. Powerful financial interests, free to throw money about with little transparency, have corrupted, in my view, the basic principles underlying our representative democracy. As a result, our political system at the Federal level is completely dysfunctional. Those who were elected to the Senate just a few weeks ago must already begin the unpleasant work of raising money for their reelection 6 years hence. Newly-elected Senators will learn that their every legislative maneuver, their every public utterance, and even some of their private deliberations will be fodder for a 24/7 political media industry that seems to favor speculation over analysis and conflict over consensus.

This explosion of new media brings with it its own benefits and its drawbacks—and it is occurring simultaneously as the presence of traditional media outlets in our Nation is declining. So while the corridors of Congress are crowded with handheld video and cell phone cameras, there is a declining roll for newspaper, radio, and network journalists reporting the routine deliberations that are taking place in our subcommittee hearings. Case in point: Ten years ago, 11 or 12 reporters from Connecticut covered the delegation's legislative activities. Today, there is only one doing the same work.

Meanwhile, intense partisan polarization has raised the stakes in every debate and on every vote, making it difficult to lose with grace and nearly impossible to compromise without cost. Americans' distrust of politicians provides compelling incentives for Senators to distrust each other, to disparage this very institution, and to disengage from the policymaking process.

These changes have already had their effect on the Senate. The purpose of insulating one-half of the national legislature from the volatile shifts in public mood has been degraded. And while I strongly favor reforming our campaign finance system, revitalizing and reha-

bilitating our journalistic traditions, and restoring citizen faith in government and politics, I know that wishes won't make it so.

I have heard some people suggest that the Senate as we know it simply cannot function in such a highly charged political environment; that we should change Senate rules to make it more efficient, more responsive to the public mood—more like the House of Representatives, where the majority can essentially bend the minority to its will. I appreciate the frustrations many have with the slow pace of the legislative process, and I certainly share some of my colleagues' anger with the repetitive use and abuse of the filibuster. Thus, I can understand the temptation to change the rules that make the Senate so unique and simultaneously so terribly frustrating. But whether such a temptation is motivated by a noble desire to speed up the legislative process or by pure political expedience, I believe such changes would be unwise.

We 100 Senators are but temporary stewards of a unique American institution, founded upon universal principles. The Senate was designed to be different, not simply for the sake of variety but because the Framers believed the Senate could and should be the venue in which statesmen would lift America up to meet its unique challenges.

As a Senator from the State of Connecticut—and the longest serving one in its history—I take special pride in the role two Connecticut Yankees played in the establishment of this very body. It was Roger Sherman and Oliver Ellsworth, delegates from Connecticut to the Constitutional Convention in 1787, who proposed the idea of a bicameral national legislature. The Connecticut Compromise, as it came to be known, was designed to ensure that no matter which way the political winds blew or how hard the gusts, there would be a place—one place—for every voice to be heard.

The history of this young democracy, the Framers decided, should not be written solely in the hand of the political majority. In a nation founded in revolution against tyrannical rule which sought to crush dissent, there should be one institution that would always provide a space where dissent was valued and respected. *E pluribus unum*—out of many, one. And though we would act as one, and should, the Framers believed our political debate should always reflect that in our beliefs and aspirations, we are, in fact, many. In short, our Founders were concerned not only with what we legislated but, just as importantly, with how we legislated.

In my years here, I have learned that the appreciation of the Senate's role in our national debate is an acquired taste. Therefore, to my fellow Senators who have never served a day in the minority, I urge you to pause in your enthusiasm to change Senate rules. And

to those in the minority who routinely abuse the rules of the Senate to delay or defeat almost any Senate decision, know that you will be equally responsible for undermining the unique value of the Senate—a value, I would argue, that is greater than that which you might assign to the political motivations driving your obstruction.

So in the end, of course, I would suggest this isn't about the filibuster. What will determine whether this institution works or not, what has always determined whether we fulfill the Framers' highest hopes or justify the cynics' worst fears is not the Senate rules or the calendar or the media; it is whether each of the 100 Senators can work together, living up to the incredible honor that comes with this title and the awesome responsibility that comes with this office.

Politics today seemingly rewards only passion and independence, not deliberation and compromise as well. It has become commonplace to hear candidates for this body campaign on how they are going to Washington to shake things up—all by themselves. May I politely suggest that you are seeking election to the wrong office. The U.S. Senate does not work that way, nor can it, nor should it. Mayors, Governors, and Presidents can sometimes succeed by the sheer force of their will, but there has never been a Senator so persuasive, so charismatic, so clever, or so brilliant that they could make a significant difference while refusing to work with other Members of this body.

Simply put, Senators cannot ultimately be effective alone.

As I noted earlier, until last year's health care bill, there had not been a single piece of legislation I had ever passed without a Republican partner.

Of course, none of those victories came easily. The notion that partisan politics is a new phenomenon, or that partisan politics serve no useful purpose, is just flat wrong.

From the moment of our founding, America has been engaged in an eternal and often pitched partisan debate. That is no weakness. In fact, it is at the core of our strength as a democracy, and success as a nation.

Political bipartisanship is a goal, not a process.

You do not begin the debate with bipartisanship—you arrive there. And you can do so only when determined partisans create consensus—and thus bipartisanship.

In the end, the difference between a partisan brawl and a passionate, but ultimately productive, debate rests on the personal relationships among those of us who serve here.

A legislative body that operates on unanimous consent, as we do, cannot function unless the Members trust each other. There is no hope of building that trust unless there is the will to treat each other with respect and civility, and to invest the time it takes to create that trust and strengthen those personal bonds.

No matter how obnoxious you find a colleague's rhetoric or how odious you find their beliefs, you will need them. And despite what some may insist, you do no injustice to your ideological principles when you seek out common ground. You do no injustice to your political beliefs when you take the time to get to know those who don't share them.

I have served with several hundred Senators under every partisan configuration imaginable: Republican presidents and Democratic presidents, divided government and one party control.

And as odd as it may sound in the present political environment, in the last three decades I have served here, I cannot recall a single Senate colleague with whom I could not work.

Sometimes those relationships take time, but then, that is why the Framers gave us 6-year terms: so that members could build the social capital necessary to make the Senate function.

Under our Constitution, Senators are given 6 years, but only you can decide how to use them. And as one Senator who has witnessed what is possible here, I urge each of you: Take the time to use those years well. I pledge to those of you who have recently arrived, your tenure here will be so much more rewarding.

More importantly, you will be vindicating the confidence that the Framers placed in each person who takes the oath of office, as a U.S. Senator, upholding a trust that echoes through the centuries.

I share the confidence that Roger Sherman, Oliver Ellsworth, and the Framers placed in this body and in its Members. But I am not blind. The Senate today, in the view of many, is not functioning as it can and should.

I urge you to look around. This moment is difficult, not only for this body, but for the nation it serves. In the end, what matters most in America is not what happens within the walls of this Chamber, but rather the consequences of our decisions across the Nation and around the globe.

Our economy is struggling, and many of our people are experiencing real hardship—unemployment, home foreclosures, endangered pensions.

Meanwhile, our Nation faces real challenges: a mounting national debt, energy, immigration, nuclear proliferation, ongoing conflicts in Afghanistan and Iraq and so much more. All these challenges make the internal political and procedural conflicts we face as Senators seem small and petty.

History calls each of us to lift our eyes above the fleeting controversies of the moment, and to refocus our attention on our common challenge and common purpose.

By regaining its footing, the Senate can help this nation to regain confidence, and restore its sense of optimism.

We must regain that focus. And, most importantly, we need our con-

fidence back—we need to feel that same optimism that has sustained us through more than two centuries.

Now, I am not naive. I am aware of the conventional wisdom that predicts gridlock in the Congress.

But I know both the Democratic and Republican leaders. I know the sitting members of this chamber as well. And my confidence is unshaken.

Why? Because we have been here before. The country has recovered from economic turmoil. Americans have come together to heal deep divides in our Nation and the Senate has led by finding its way through seemingly intractable political division.

We have proven time and time again that the Senate is capable of meeting the test of history. We have evidenced the wisdom of the Framers who created its unique rules and set the high standards that we must meet.

After all, no other legislative body grants so much power to each member, nor does any other legislative body ask so much of each member.

Just as the Senate's rules empower each Member to act like a statesman, they also require statesmanship from each of us.

But these rules are merely requiring from us the kind of leadership that our constituents need from us, that history calls on us to provide in difficult times such as the ones we're encountering.

Maturity in a time of pettiness, calm in a time of anger, and leadership in a time of uncertainty—that is what the Nation asks of the Senate, and that is what this office demands of us.

Over the past two centuries, some 1,900 men and women have shared the privilege of serving in this body. Each of us has been granted a temporary, fleeting moment in which to indulge either our political ambition and ideological agenda, or, alternatively, to rise to the challenge and make a constructive mark on our history.

My moment is now at an end, but to those whose moments are not yet over, and to those whose moments will soon begin, I wish you so much more than good fortune.

I wish you wisdom. I wish you courage. And I wish for each of you that, one day, when you reflect on your moment, you will know that you have lived up to the tremendous honor and daunting responsibility of being a United States Senator.

To quote St. Paul, "... the time of my departure has come. I have fought the good fight, I have finished the race, I have kept the faith."

So, Mr. President, it is with great pride, deep humility and incredible gratitude, as a United States Senator, that I yield the floor.

Thank you, Mr. President.

(Applause, Senators rising.)

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I have on many occasions spoken of my affection for my friend CHRIS DODD. At the caucus today—the Presiding Officer was

there—I indicated very few people have had the opportunity and the challenges in a single Congress as CHRIS DODD. He found himself chairman of the Banking Committee at a time when the country was collapsing, the banks were collapsing. Yet he led the way to working with the Republican President to do the so-called TARP. It was something that was done on a bipartisan basis. There was never a better example in my entire government career of a more cooperative group of Senators, Democrats and Republicans, House and the Senate, working together to create something that was badly needed.

Then we had, of course, many other issues beginning with Wall Street reform. Then, to complicate his life and to add to the challenges in his life—the best friend a man could ever have was CHRIS DODD's best friend, Ted Kennedy—Ted Kennedy was stricken very ill. Senator DODD knew he would not be back to the Senate. Very few people knew that, but he knew that. He, in effect, was chairing two major committees at the same time, the HELP Committee and the Banking Committee. He did it in a way that is so commendable, so exemplary.

I have so much, I repeat, affection for CHRIS DODD that I am not capable of expressing how deeply I feel about this good man. I will have more to say later, but I did want to take this opportunity, as soon as the Republican leader makes his remarks, to allow his colleague from the State of Connecticut to speak following the two leaders, if that is OK.

I ask unanimous consent that following the remarks of Senator McCONNELL, Senator LIEBERMAN be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader.

Mr. McCONNELL. Mr. President, like most Members of this body, I am rarely at a loss for words, but I think we have just had an opportunity to hear one of the most important speeches in the history of the Senate about our beginnings, about our traditions, about what is unique about this institution which makes it different from any other legislative body in the world. I have heard many people discuss that over the years but never anyone so cogently point out why the uniqueness of this institution is so important to our country as the senior Senator from Connecticut has done it today. So while we have a huge number of Senators on the floor, I am going to strongly recommend that those who were not here have an opportunity to take a look at his remarks because I think they are an enormously significant and important contribution to this institution and to its future.

On a personal basis, I want to say to my good friend from Connecticut how much I am going to miss him—his wonderful personality, his ability to talk to anybody—a uniquely effective individual.

So we bid adieu to the senior Senator from Connecticut and hope our paths will cross again in the future.

I yield the floor.

Mr. DODD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, for 22 years it has been a blessing for me to have served with CHRIS DODD in the Senate as my colleague from Connecticut, as my dear friend, as my legislative partner. I am going to miss him a lot, as everybody in this Chamber will. I think when we listened to the words he spoke to us just a few moments ago—how full of wisdom and warmth they were—we knew how much we are going to miss him and how much we should consider what has made him not only our great friend but a truly great Senator.

CHRIS mentioned Sherman and Ellsworth, whose pictures are out in the reception area just off the Senate, who crafted the Connecticut Compromise, really created the Senate. I think CHRIS DODD, who is the 54th Senator from the State of Connecticut in our history, took this institution that Sherman and Ellsworth created in the Connecticut Compromise and made it work to the great benefit of the people of Connecticut and the people of America.

To the great benefit of the people of Connecticut and the people of America, CHRIS DODD was born to a legacy, an honorable legacy of public service, which he watched, as so many of us did in Connecticut, and, of course, learned from, from his father, Senator Thomas J. Dodd. I could say a lot about Senator Dodd, Sr. He was a prosecutor at the Nuremberg trials, remarkably principled, skillful prosecutor, who became a Member of the Senate.

I will tell you that as a young man in Connecticut, me, growing up, thinking about a political career, when I heard that Senator Tom Dodd was somewhere within range of where I lived or went to school, I went to listen to him speak. He was a classic orator, an extraordinarily principled man who had a great career in the Senate.

As we know from the years we have served with CHRIS, the characteristics I have described of his father were taken and put to extraordinarily good use in the Senate.

CHRIS's words were very important, and, as Senator McCONNELL said, should be studied by all of us and by anyone thinking about coming to the Senate. We all talk about this being an age of hyperpartisanship. But I think that misses the point because, as CHRIS said, he is a partisan in the best sense of the word. He is a principled partisan. He is passionate about what he believes in. But he knows we come to a point when partisanship ends, and you have to get something done for the public that was good enough to send you here.

Over and over again, any of us on both sides of the aisle who have watched CHRIS work a bill know how

persistent, how open, how anxious he was to try to find common ground, yes, to compromise because ultimately our work is the art of the possible. Somebody once said to me: The futility of the failure to compromise, there is no result from it. But if you have a goal, a principled goal, you know you can achieve a significant part of that goal if you can build enough support in this Chamber, and time and time again CHRIS DODD did that.

The other reason I think he did it is because of the truth that he spoke in his remarks, which is that beyond the great debates and the headlines and the sniping back and forth, the Senate, after all, is 100 people who go to work in the same place every day, and your ability to get things done in the Senate, as is true in offices and factories all over America and other places of work, your ability to get things done here is affected, in great measure, by the trust your colleagues have in you and even the extent to which they like you.

I think, by those standards, CHRIS DODD has been totally trustworthy. As we were taught when we grew up in Connecticut politics, his word has been his bond, and his personality has warmed each of us as we have gone through the labors we go through here.

CHRIS DODD has served longer in the Senate than any Senator from Connecticut. So on this day—and he will forgive me a little bit of hyperbole. I would guess, as a matter of friendship and faith, that he has probably accomplished more than any other Senator in the history of the State of Connecticut, and he has done it because he cares about people. When he takes something on, he simply does not quit.

I just want to tell you one story. In 1989, CHRIS met a woman named Eva Bunnell at her church in East Haddam, CT. She told him her daughter had been born with a rare brain disease and was fighting for her life in the intensive care unit. But when her husband asked his employer for time off to be with his wife and critically sick infant, he was told to go home and never come back, leaving a family without income or health insurance.

The story, all too common at the time, is the kind of injustice that has repeatedly moved CHRIS DODD to action. He authored, as we know, the Family and Medical Leave Act. He worked, as I said before, on compromises that made it acceptable to a large number of people, stuck with it through two Presidential vetoes, and then finally saw it signed into law by President Clinton in 1993.

Today, the records will show that more than 50 million people, 50 million people, have been able to take time off from work to care for a loved one or give birth to a child without fear of losing their jobs.

That is a lifetime achievement, but it is only one of many such achievements CHRIS DODD has had in the Senate. Senator REID talked about this

last session of his Senate career, extraordinary accomplishments: health care reform, Wall Street reform, the Iran sanctions bill which came out of the Banking Committee, which is, in my opinion, the strongest such bill we have ever passed and the last best hope to avoid the necessity to take military action against Iran. This is the kind of record CHRIS has built.

Up until this time, I have been serious, and when you talk about CHRIS DODD, it would be wrong to be totally serious because one of the things we are going to miss is that booming laugh and the extraordinary sense of humor. I have had many great laughs with colleagues here. I have probably given too many laughs to colleagues, as I think about it. But I have never laughed louder or more over the years than I have with CHRIS DODD.

Perhaps it is not totally appropriate on the Senate floor, but I have two of his comments, one about me, that I wish to share. I notice the former comedian is here. A while ago, only CHRIS DODD would have told an audience here in Washington that he thought enough time had passed in my career that he could reveal that JOE LIEBERMAN actually had not been born Jewish but was born a Baptist and raised a Baptist, and then when I got into politics and saw how many events I would have to go to on Friday night or Saturday, I converted to Judaism to take the Sabbath off. Then CHRIS said: And, you know, I am thinking of converting to Judaism myself but only for the weekends.

Another quick quip. As my colleagues in the Senate know, it is our honor to walk our State colleagues down the center aisle in the Senate to be sworn in for a new term. The first time I did that, we walked arm in arm, as we always have. CHRIS turned to me and said: You know, JOE, there are people who are worried that you may be the only person I will ever walk down an aisle with.

Well, fortunately, that was not true because, CHRIS and Jackie got married and had these two wonderful daughters, Grace and Christina, who have provided so much joy and satisfaction and hopefulness to CHRIS.

We are going to miss you. I am going to miss you personally. I speak for myself, but I speak, I would bet, for just everybody in this Chamber in saying we feel so close to you that we know our friendship will go on.

I would say CHRIS DODD leaves, to sum up an extraordinary Senate career, having achieved a record of results that benefited the people of Connecticut and America in untold ways. He has a wonderful family with whom he looks forward to spending time, and he has oh so many great years ahead of him, including, I hope and believe, times when he will again be of service to our country.

God bless you, CHRIS, and your family.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I wish to join with my colleagues in saluting the departure of one of our best, Senator CHRIS DODD. I first saw his father, though I did not meet him, when I was a student intern for Senator Paul Douglas of Illinois, who had an office that was next door to CHRIS DODD's father's. I saw Senator Thomas Dodd leaving that office and was certainly aware of the great contribution he made to America.

Little did I know some 16 years later, when I would be a candidate for the House of Representatives, that his son would come to Decatur, IL, to do an event for me in my campaign. It was a smashing success, the biggest turnout ever. I am sure Senator DODD believes it might have been because of his presence. It also could have been because it was a \$1 chicken dinner and people came from miles around. But I was happy to advertise him as the star talent at that event.

What a great life story. CHRISTOPHER JOHN DODD, the fifth of six children of Thomas and Grace Dodd, was born in 1944 with a caul, a thin veil of skin thought to be a sign of good luck, covering his head. The doctor who delivered him told his mother that with this sign of good luck, this baby might grow up to be President, to which Mrs. Dodd replied: "What is the matter with Franklin Roosevelt?"

It was a great line, but the truth is, while Grace and Tom Dodd were both ardent New Dealers, they knew America would not depend on one leader forever, not even FDR. They knew and they taught their children they all have an obligation in our own time to try to move America closer to a more perfect Union.

Thomas Dodd, Senator DODD's father, worked to fulfill that obligation in his time. He chased John Dillinger as an FBI agent, prosecuted war criminals and KKK members as a government lawyer, and served in both the House and Senate. His son CHRIS followed his father's example, found his way to serve America by serving in the Peace Corps as a volunteer in the Dominican Republic, where he lived for 2 years in a mountaintop village in a house with a tin roof and no running water or telephone.

In that village he started a maternity hospital, family planning program, a youth club, and a school. Those were the first installments of what would become, for CHRIS DODD, a lifetime of work protecting women and children worldwide.

Senator DODD was elected to the Senate in 1980, at the ripe age of 36. He is both the youngest person ever elected to the Senate in Connecticut history and the longest serving, as has been said. Early on, his colleagues recognized his talents and named him one of the three most effective freshman Senators. He has never let up on his efforts to help America and help Connecticut.

He is a passionate, articulate voice for economic justice, for civil, constitutional and human rights and for America's role as a moral leader in the world. He is a champion of fairness, co-founder of the Senate Children's Caucus, lead sponsor, as Senator LIEBERMAN mentioned, in 1993, of the Family and Medical Leave Act, which has helped countless millions of Americans.

He has achieved more in the last 2 years, though, than most Senators achieve in long careers. As chairman of the Senate Banking Committee, he led the fight in the Senate for the most important Wall Street reform since the Great Depression. He picked up the fallen standard from his dear friend Ted Kennedy and helped lead the fight Ted Kennedy always dreamed of for affordable health care for all Americans. For that achievement alone, CHRIS DODD has earned a place in history.

CHRIS DODD has, as Eugene O'Neill might say, "the map of Ireland on his face," but he has the promise of America written in his heart. His work in the Senate has made that promise real for millions of Americans. In his office in the Russell Senate Office Building, an office once occupied by his father, are portraits of two Thomases: Thomas Dodd, his father, and another of his heroes, Sir Thomas More.

I listened to CHRIS's speech just a moment ago, and I was reminded of what Thomas More wrote in his masterwork, "Utopia." He said:

If you can't completely eradicate wrong ideas, or deal with inveterate vices as effectively as you could wish, that is no reason for turning your back on public life all together. You wouldn't abandon a ship in a storm just because you couldn't control the winds.

For 30 years in the Senate, even when he has had to sail through fierce headwinds, CHRIS DODD has kept his compass fixed on the ideals that make America both great and good. In doing so, he has made the Senate, Connecticut, and America a better place.

I am proud to have served with him and call him a friend. I thank him for his efforts that brought me to the House of Representatives so many years ago. I thank him for his service in the Senate and a special thanks to his wonderful family; Jackie, a great friend, and those two great daughters, Grace and Christine, whom I have seen as swimmers at the Senate pool, good health and good luck to the whole family for many more chapters in their lives.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise this afternoon to pay tribute to my dear friend and colleague and, in a very real sense, mentor. I can testify from the experience of the last 2 years to his remarkable contributions to this country.

I don't believe any other Senator could have navigated the treacherous

waters of the Dodd-Frank bill. It was like watching a great conductor conduct a complicated piece of music: knowing when to pause and let tempers cool, knowing when to pick up the tempo, knowing when to come to the final conclusion. It was a virtuosos performance, in keeping with a career of contributing to Connecticut and to this country.

The most remarkable tribute I have ever heard about this wonderful man was in a very unusual place by a person who honestly probably doesn't know who he is. It was May 21, 2010. I was visiting a wounded soldier at Walter Reed Army Hospital, a member of the Second Battalion, 508 Parachute Infantry Regiment of the 82nd Airborne Division. He had been wounded around Kandahar by an IED. Fortunately, he was on the road to recovery. We joked for a moment and talked about his experiences, and I turned to his mother, who was sitting there watching her son, her life, her hope make a full recovery, and I said: How are you doing?

She said to me very simply: I am doing fine. You see, I was able to take family medical leave and be with my son while he recuperated.

She probably doesn't know who Senator DODD is or what he did, but she, along with 50 million other Americans, was by the hospital bed of a wounded son or a sick child or an ailing parent. To me, that is the greatest tribute to what Senator DODD has done.

There is a great line I recall about Franklin Roosevelt. His cortege was winding its way through Washington. A man was sobbing, sobbing, sobbing. A reporter rushed up to him: Well, you are so affected. You must have known the President. Did you know the President?

He said: No, I never knew the President, but he knew me.

CHRIS DODD knew the people of Connecticut and the people of the United States, and in every moment, he served them with integrity and diligence and honor.

CHRIS, to you, to your family—and I say this because your mother is from Westerly, RI, God bless her; and your beloved sister, our dear friends Martha and Bernie, from Rhode Island—as an adopted son of Rhode Island, thank you for your service to the Nation.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, may I associate myself with the remarks of my distinguished senior Senator and reemphasize our pride in the contacts that Chairman DODD, Senator DODD, our friend CHRIS DODD has with Rhode Island.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I wish to take a couple of minutes to salute the service of one great Senator, CHRIS DODD.

CHRIS and I have served together for more than 25 years. When I arrived

here—and I was not one of the youngest people to get here at that time, but CHRIS was someone I knew from other walks of life—I turned to him, as well as my dear friend who used to occupy this seat, Ted Kennedy, for advice and counsel. Sometimes the counseling was better than the advice, but we were younger then.

CHRIS DODD has that incredible personality that gets things done, that presents a leadership position on issues. He has shown incredible patience in the way he dealt with financial reform and with health care. But never, as I saw it, did CHRIS leave the people who disagreed with him with anger, with a feeling of anger or with anything other than respect and friendship.

CHRIS comes from a distinguished family. His father occupied a seat here for a dozen years. Now Senator CHRIS DODD has decided to leave the Senate. It was a decision he made with which I totally disagreed. It was bad judgment, I can tell my colleagues that. When I left after 18 years of service, three terms, I decided I had had enough. I left. Good fortune smiled on me, and I came back after 2 years, after a 2-year absence, missing being here maybe more than it missed me.

I remember, as I made my outgoing visits—no, my decisionmaking visits—CHRIS invited me to his office with Ted Kennedy and a colleague whom we had at the time, Paul Wellstone, now deceased but a wonderful colleague. The three of them sat with me in CHRIS's office, and CHRIS tried to talk me out of leaving. I said: No, it is a decision I made. I began to have misgivings about it, but by then, the die was cast; there were other people who wanted to run for the job. So I left with lots of regrets. I was away from here for a period of time. In 2001 when I left, it was a terrible year—the year of 9/11 and the beginning of a recession and the beginning of war and all of those things. So I tried to play turnaround with CHRIS, and I talked to CHRIS about leaving and I said: CHRIS, don't leave. Don't do it.

CHRIS DODD will leave a void. I think it is obvious that someone will follow, take the reins. It doesn't mean they will ever take his place. I don't think that is possible. CHRIS DODD will have left an impression here of decency and honesty and honor and respect on all of us on both sides of the aisle—one of the few times we all agree.

So I say to CHRIS and Jackie and your two little girls that we wish you well. Our friendship will endure way past our time serving together.

CHRIS, follow my example. Give it a couple of years and get back here, will you. Thank you very, very much, CHRIS DODD, for your wonderful service. We love you, and we will miss you, and we will always think about you.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I rise to speak briefly in honor of our friend and colleague, the senior Senator from

Connecticut. I have watched him from the day I came here. We knew each other a little bit when I was in the House. He left the House to go to the Senate, but we had many of the same friends when I came to the House. I always marveled at his abilities.

For those of us who have served here—I have only been here 12 years—we know the joys and difficulties of legislating in the Senate. We know it is not easy, and we know how satisfying it is. There are very few who reach the acme of how to do it and who devote their lives to it. I guess they are given a title—I don't know if it is official; it is probably not—they are the "men and women of the Senate." We have had two leave us in the last year: Senator Robert Byrd and Senator Ted Kennedy. They were truly men of the Senate. It is not a title bestowed easily or lightly or frequently.

CHRIS DODD is a man of the Senate. He is in the category of Ted Kennedy and Robert Byrd in terms of his ability to get things done, his ability as a legislative craftsman, as somebody who is able to combine idealism and practicality, as somebody who is able to sit down with someone, as has been mentioned before, with a totally different viewpoint and get them to compromise and be on his side and be part of the effort he is leading. He is a man of the Senate. He will always be a man of the Senate. I will miss him personally for his guidance and friendship, and I think every one of us will.

CHRIS, good luck and Godspeed.

Mr. DODD. Thank you very, very much.

Mr. COCHRAN. Mr. President, if there is no other Senator wishing to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNEMPLOYMENT BENEFITS

Mr. REED. Mr. President, today we have an opportunity to assist literally hundreds of thousands of families across this country who are out of work through no fault of their own, who are battling with the most severe economic downturn since the Great Depression, who are chasing jobs that have disappeared, and they are looking everywhere to try to find work. We have the opportunity to extend unemployment benefits for an additional year.

In my State of Rhode Island, people are in a very serious situation. They are struggling to stay in their homes, to educate their children, to deal with the challenges of everyday life. They

have worked hard and long all of their lives, and now they are finding it difficult to find a job.

In every situation previously in this country, we have come to their assistance. We have done so by extending unemployment benefits. We have never failed to do that as long as the unemployment rate was above 7.2 or 7.4 percent. Today across the country, it is close to 9 percent nationally. In my State of Rhode Island, it is much higher. We have always done it on an emergency basis because it truly is an emergency. We haven't had to offset because we have always determined that it was necessary to get the money to the people who could use it, who needed it desperately, and we should do that again.

I find it difficult to understand how some of my colleagues on the other side would object to an extension of unemployment benefits for a year that are not offset but at the same time insist that we provide tax cuts to the very richest Americans, without paying for them, and insist that we add approximately \$700 billion to our deficit by extending tax cuts for people making over \$250,000 a year—and many making many times that amount—yet for unemployed Americans desperately seeking work and not finding it, they would insist that we not only have to pay for it, but we have delayed and delayed the process of getting them assistance. It is difficult to justify those two positions.

It is also difficult to justify those two positions because what we know is that unemployment compensation benefits give us a much bigger bang for the buck than the extension of tax relief to upper income citizens. The Congressional Budget Office has rated the effectiveness of various techniques to provide assistance and stimulate demand in the economy. They have found that unemployment insurance is far and away the most effective form—much more effective than tax cuts to the wealthy.

CBO estimates that for every dollar of unemployment compensation benefits that we inject into the economy, we get \$1.90 of economic activity, which is almost a 2-for-1 payback. So we are in a situation where this is not only the appropriate policy to pursue, but it is the most effective one in order to keep demand and the economy and growth moving forward.

I am someone who believes in fiscal responsibility. That is why I took, in the 1990s, difficult votes in order to balance the budget under President Clinton, to raise not only our output but also to balance the budget and have a surplus in 2000. I opposed the proposal and the tax cuts favored by Republican colleagues in 2000 because I understood that the difficult, hard fought, fiscal responsibility could easily be frittered away because what looked like a surplus in 2000 could be affected by unforeseen events, such as terrorist attacks, natural disasters, or changes in the world economy that we could not con-

template. I knew how difficult it was in the nineties to get our house in order. I was opposed to these tax cuts. I hope everybody else realizes the demographics of the country at that time.

In 1993–1994, we took tough votes to build up a surplus because we knew what was coming. We had a demographic wave—the baby boomers—that would qualify for Medicare and Social Security, and that would, by the nature of the sheer size of that population, put extra demands upon our budget.

Despite all of that, taxes were cut, wars were pursued unpaid for. For the first time in the history of the country, we engaged in major military operations and didn't even make an attempt to pay for them. That is not the definition of fiscal responsibility. Yet many of the same proponents of that policy are urging us today that we cannot do unemployment compensation insurance unless we pay for it. But, of course, let's extend the Bush tax cuts for all Americans, including the wealthiest, and in that case add another \$700 billion to our deficit over 10 years. That doesn't seem to make any economic sense.

This proposal is supported by people who are knowledgeable about the way the economy works. In a statement released today, 33 economists, including 5 recipients of the Nobel Prize in economics and 5 former chairs of the Council of Economic Advisers, have said:

Continuing the about-to-expire federal emergency unemployment insurance program, which provides extra weeks of benefits to the long-term unemployed, is sensible economic policy that will not only assist the unemployed but help maintain spending, overall demand, and employment at this critical point in the recovery. . . . Eliminating these benefits, on the other hand, will cause hardship for the long-term unemployed, scale back spending, and weaken the economy since unemployment benefits are one of the most effective means available to support overall demand. Unemployment has remained above 9 percent for 18 months already and will likely remain high for some time to come, making a strong case for continuing the current program for another 12 months. Moreover, the special provisions for extending unemployment insurance during recessions have traditionally been financed by short-term fiscal deficits and this remains a prudent approach. The program will not contribute significantly to long-term deficits because its costs will diminish automatically as the economy recovers and unemployment returns to more normal levels.

Let me say that again in my own words. Our colleagues are suggesting a permanent extension of tax cuts that will cost, over 10 years, \$700 billion, and presumably 10 years after that and 10 years after that. That is a huge structural change to our revenue. Unemployment compensation benefits are cyclical. They rise in difficult times, like today, and they fall as the economy recovers. So we are not talking about a long-term commitment to a program of deficit enhancement; we are talking about short-term relief for struggling Americans.

I think these economists make the case extraordinarily well. I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ECONOMIC POLICY INSTITUTE,
Washington, DC, November 29, 2010.

Hon. BARACK OBAMA,
President of the United States, The White House, Washington, DC.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.

Hon. HARRY REID,
Majority Leader, U.S. Senate, Washington, DC.

Hon. JOHN BOEHNER,
Minority Leader, House of Representatives, Washington, DC.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT, SPEAKER PELOSI, MAJORITY LEADER REID, CONGRESSMAN BOEHNER, AND SENATOR MCCONNELL: Congress must decide whether to continue the Emergency Unemployment Compensation program (EUC), a decision that will directly affect millions of families and the entire economy. Authorization for the additional benefits Congress has been providing since the passage of the American Recovery and Reinvestment Act in February 2009 expires tomorrow, November 30, and millions of unemployed workers will soon be affected. I write you out of concern for the jobless, who through no fault of their own, cannot find work in an economy with only one job vacancy for every five unemployed workers, and who depend on EUC to pay their rent or mortgage, pay for groceries and gas, and pay for their heating bills and other utilities.

But I write also out of concern for the economy. Together with Lawrence Katz of Harvard University, I gathered the signatures of 33 prominent economists on the attached statement, which warns that letting the Emergency Unemployment Compensation program expire will weaken the economy by reducing the spending of the unemployed and overall consumer demand. All of us agree that EUC should be extended for another 12 months and that there is no danger that continuing to provide extended unemployment insurance benefits will materially raise overall unemployment. We also agree that deficit financing for EUC is prudent and will not contribute significantly to long-term deficits.

We hope that you act swiftly to renew these benefits, for the good of the economy and the well-being of millions of deserving Americans who depend on them.

Sincerely,
LAWRENCE MISHEL,
President, Economic Policy Institute.

STATEMENT FROM LEADING AMERICAN ECONOMISTS

Continuing the about-to-expire federal emergency unemployment insurance program, which provides extra weeks of benefits to the long-term unemployed, is sensible economic policy that will not only assist the unemployed but help maintain spending, overall demand, and employment at this critical point in the recovery. Given that there remains a historically high number of unemployed workers per job opening, there is no danger that continuing to provide extended unemployment insurance will materially raise overall unemployment. Eliminating these benefits, on the other hand, will cause hardship for the long-term unemployed, scale back spending, and weaken the

economy since unemployment benefits are one of the most effective means available to support overall demand. Unemployment has remained above 9.0% for 18 months already and will likely remain high for some time to come, making a strong case for continuing the current program for another 12 months. Moreover, the special provisions for extended unemployment insurance during recessions have traditionally been financed by short-term fiscal deficits and this remains a prudent approach. The program will not contribute significantly to long-term deficits because its costs will diminish automatically as the economy recovers and unemployment returns to more normal levels.

SIGNERS

Henry J. Aaron, Brookings Institution; Kenneth Arrow, Nobel Laureate in Economics, Stanford University; David Autor, Massachusetts Institute of Technology; Martin Neil Baily, Chair, Council of Economic Advisers, Brookings Institution;

Dean Baker, Center for Economic and Policy Research; Alan S. Blinder, Princeton University; Gary Burtless, Brookings Institution; Raj Chetty, Harvard University; David Cutler, Harvard University; Janet Currie, Columbia University; J. Bradford DeLong, University of California—Berkeley; Robert H. Frank, Cornell University; Richard Freeman, Harvard University; James K. Galbraith, University of Texas; Claudia Goldin, Harvard University; Jonathan Gruber, Massachusetts Institute of Technology;

Harry J. Holzer, Georgetown University; Robert Johnson, Roosevelt Institute; Lawrence Katz, Harvard University; Frank Levy, Massachusetts Institute of Technology; Eric S. Maskin, Nobel Laureate in Economics, Princeton University; Daniel L. McFadden, Nobel Laureate in Economics University of California—Berkeley; Lawrence Mishel, Economic Policy Institute; Christina Romer, Chair, Council of Economic Advisers University of California—Berkeley; Christopher Ruhm, University of North Carolina—Greensboro; Emmanuel Saez, University of California—Berkeley; Charles L. Schultze, Chair, Council of Economic Advisers, Brookings Institution; Robert M. Solow, Nobel Laureate in Economics, Massachusetts Institute of Technology; Timothy M. Smeeding, University of Wisconsin; Joseph E. Stiglitz, Nobel Laureate in Economics, Chair, Council of Economic Advisers, Columbia University; Laura D. Tyson, Chair, Council of Economic Advisers University of California—Berkeley; Till Von Wachter, Columbia University; Justin Wolfers, University of Pennsylvania.

Mr. REED. As I indicated before, their view has been echoed by the CBO. Tax cuts, in their view, are the least effective form of economic stimulus, and the most effective is unemployment insurance benefits.

On November 16, the Department of Labor released an independent study that was commissioned during the Bush administration. It found that since mid-2008, the Federal unemployment insurance program has saved 1.6 million jobs in every quarter, averting 1.8 million layoffs per quarter at the height of the downturn, and reduced the unemployment rate by 1.2 points.

Separately, the Economic Policy Institute has found that continuing the

programs through the end of 2011 will support the creation of 700,000 full-time equivalent jobs.

People who get unemployment insurance benefits tend to take that money and go to the grocery store or buy shoes for their children or pay down, if they can, some of their credit card debt. Maybe in this holiday season they will buy an extra present for their children. That keeps our economy moving, and it keeps the people in the grocery stores working, people at department stores working, and the manufacturers producing these goods working.

Our economy grew at 2 percent in the third quarter and in a recent Wall Street Journal article, Goldman Sachs analyst Alec Phillips estimated that if unemployment insurance benefits expired, it would shave half a percentage point from growth. Such a decline would cost hundreds of thousands of jobs. So here is a policy that will expand jobs, maintain jobs, and if we don't pursue it, we will find ourselves contracting employment at the very time that all Americans are asking us to do something very clear-cut: get jobs, keep jobs, produce jobs, and find a way to create them. This could also engender a downward spiral because if the jobs contract, that could be the beginning of further contraction, and it could leave us in a worse situation.

So not only will families feel the brunt of this lack of unemployment compensation benefits, it is the small businesses throughout every community—it is the retailers and the people who depend upon their neighborhood customers to come in and buy the goods and services that not only provide them what they need but also provides the cash flow for small businesses to keep operating.

Failure to maintain unemployment insurance will mean that 2 million jobless workers will lose benefits in December. Two million Americans, this December, will stop receiving benefits. Several hundred thousand unemployed workers will lose their benefits every month, culminating in up to 6 million losing benefits by the end of 2011. Now is the time to govern, the time to act, and now is the time to do what we have always done in a situation like this. It is the time to act promptly and timely and pass an extension of the unemployment insurance benefits.

We have seen over the last year delay after delay. We have seen benefits expire only to retroactively be restored through procedural votes and delays.

One of the ironies is that we get these procedural votes that we can't move forward on a bill but, finally, when the bill comes up to a vote, there is overwhelming support, which suggests to me that the process of delay has taken primacy over the substance of policy. That is not worthy of our constituents and the crisis they face today in this country. We have, as I said, continuously maintained unemployment compensation benefits, and we have extended benefits whenever

our unemployment rate nationally is above 7.2 percent. Republican administrations, Democratic administrations, Republican Congresses, and Democratic Congresses have always recognized that at the level of 9 percent unemployment, extended unemployment benefits were almost automatic—something you had to do for all the reasons I have cited, such as the economic effects on the economy, but most fundamentally it is giving people a chance to just make ends meet until they can find a job.

So I think we are in a position where we must go forward. Acting now is the right thing to do, the responsible thing to do, and the wise economic thing to do. We need to swiftly pass this 1-year extension.

Many colleagues are joining Senator BAUCUS, the chairman of the committee, in introducing this legislation. I urge at this point that we move forward, and at this point I make the following request.

Mr. DURBIN. Before the Senator makes his request, may I pose a question to the Senator.

Mr. REED. Yes.

Mr. DURBIN. I thank the Senator for his time and his leadership on this issue. I am happy to join him. I want to make sure we put this into the context of the lameduck session. This is a session when we are debating tax cuts, and the position held by the other side of the aisle is that we should give tax cuts to those making \$1 million a year in income, which is roughly \$20,000 a week. If I understand the differences in the Democratic position and the Republican position, we think those making \$1 million a year should get roughly \$6,000 in tax cuts. They believe those making \$1 million a year should get \$100,000 in tax cuts. I also understand if the Republican position prevails, it will add \$700 billion to the deficit over 10 years, just to give tax cuts to those making over \$250,000 a year or \$70 billion a year.

So their position, when it comes to tax cuts for the wealthiest in America, is that we can afford to add \$70 billion to the deficit with a tax cut for millionaires each year and not accept the reality that that is one of the poorest ways to spark growth in our economy. Our position is that, historically, when we reach high levels of unemployment—over 7.2 percent—we have extended unemployment benefits. We are now at about 9.6 percent. And we believe we should extend unemployment benefits for those who have lost their jobs through no fault of their own. The benefits average about \$300 a week for someone to keep their family in food, clothing, pay the utility bills in the winter, that sort of thing. And we are told by the Congressional Budget Office that unemployment benefits are the best catalyst for sparking growth in the economy. It is money spent immediately by people who need disposable income and who will turn around and purchase goods and services immediately with it.

So \$70 billion for tax breaks—\$70 billion in deficits each year for tax breaks for the wealthiest people in America, for something that doesn't spark the economy, versus some \$60 billion for extending the unemployment insurance benefits for 1 year, which will spark growth in the economy. Is that the choice we are facing?

Mr. REED. I think the Senator from Illinois has stated it very clearly, very succinctly, and very accurately. That, apparently, is the choice. It is a choice I find difficult to understand for the reasons the Senator has laid out. We want to respond to the needs of so many families, working families. And this is one of those programs that, by definition—if you qualify for unemployment benefits, you had a job, you just lost it. So these are working families who are now looking for some support as they search desperately for jobs.

As we pointed out too, not just in terms of the individual recipients but for the economy overall, the benefit is substantial. It is about \$1.90 in economic activity for every \$1 that we put into the benefit. On the other side of the spectrum, economists have looked at the impact of these tax cuts for the wealthiest Americans and find very little growth in economic activity, and, frankly, that makes sense. This is not economics at MIT or Harvard or anyplace else. If you are struggling at \$368 a month, it is not going to go into your vacation fund or for buying objects of art. It is going to go to the grocery store and into all of the demands of a family. If you are fortunate enough through your hard work and through your ingenuity to be making over \$1 million a year, your consumption package is not going to be altered dramatically by these tax cuts. That is the conclusion of the economists, and I think the Senator said it very well.

UNANIMOUS-CONSENT REQUEST—S. 3981

So I thank the Senator from Illinois, but at this juncture, I would like to formally, Madam President, ask unanimous consent that the Finance Committee be discharged from further consideration of S. 3981, a bill to provide for a temporary extension of unemployment insurance provisions, and that the Senate then proceed to its immediate consideration; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating thereto appear at the appropriate place in the RECORD, as if read.

The PRESIDING OFFICER (Mrs. HAGAN). Is there objection?

Mr. BROWN of Massachusetts. Madam President, I object. And I have a pay-for alternative on which I would like to speak.

The PRESIDING OFFICER. Objection is heard.

Mr. REED. If the Senator will pause for a moment, I am concluding, and then the Senator will have his own time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Again, I think it is unfortunate that we cannot move this bill. I think, to put it very succinctly, we will try again. I hope we can. I hope we will for the sake of our country, small businesses, and families across my State and in this Nation who need this help and assistance.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Madam President, I wish to thank the Senator from Rhode Island, who passionately spoke about his proposal, his bill to deal with a very important problem we are facing in the United States.

I am not the new person here anymore. Somebody came in yesterday. But I will say that it is still new to me that here we are, with 6½ hours before the benefits will expire, and we are now discussing this. God forbid we actually think ahead and spend a little bit of forethought in preparing and working together to try to come up with some type of solution before being faced with a 6½-hour deadline before the benefits expire. So, once again, I know I am not the newest guy anymore, but I have to say that this is not the way to do business in the Senate. And if it is, it needs to change.

So here we are. The Senator just spoke about our needing to do this to keep the economy moving. No, we have to start focusing on jobs. That is what we have to do to get this economy moving. We have to start focusing on the things that are important—the deficit, the spending. Yesterday, we couldn't even pass the 1099 fix—something small businesses and all businesses in this country are clamoring for. We could not do that one thing—one thing. Now all of a sudden we are going to do another extension.

I have complete and total sympathy and understanding for this. I want to help. More than anybody here, I want to help. But to just keep throwing money at a problem when it is not paid for, with 6½ hours left, to put people on the spot instead of doing it the right way—working together, getting together in an office with the leadership and the people who care about these issues and coming up with a common solution—makes no sense to me.

The reason we are having this high unemployment which my colleagues keep referring to—9 percent unemployment—is because there is no certainty in business. There is so much uncertainty right now in the business world, whether it is with the financial services people or the estate planners. Right now, we have zero percent. If you die—folks say it is a good year to die because next year it could be 55 percent or it could be less. Who knows. So there is so much money on the sidelines right now that we don't know what to do. It is not coming in to get the economy moving.

We can't do the 1099 fix, we can't do the R&D tax credits, we can't work on accelerated depreciation, and we

haven't repatriated any of the monies that are offshore. What do we do? We put up more and more roadblocks for businesses, so they do not want to hire these people off the unemployment rolls. Yet here we are with 6½ hours left, people aren't hiring, and we spent 7 days on food safety. Listen, I love to eat as much as the next guy, but give me a break. We should have spent 7 days working on the one thing the people who voted in November wanted—and they sent us a very powerful message—and that is getting our economy moving again; focusing on jobs, jobs, jobs; streamlining the regulatory process; and firing away to get this economy moving. But we needed to work on food safety. Oh my gosh, that was so important. I am glad I rushed back from our break to work on food safety. Now, I know we have some issues in that regard, but don't you think the 1099 fix and unemployment benefits and all these other things are a little bit more important?

Some of my colleagues will say—the Senator from Illinois just said it—that we are here debating tax cuts. No, we are not. We are not debating tax cuts. I have been here for every vote we have had. I have been to every meeting since I have been back here. Where were we talking about tax cuts? Am I missing something? No, we haven't been talking about tax cuts. We haven't debated or discussed anything to do with business and getting our businesses and our economy moving again.

The recent job numbers in Massachusetts reflect over 280,000 people unemployed in my State alone—over 8 percent of the Massachusetts workforce. As the Senator from Rhode Island mentioned—and I know Rhode Island well; I eat in Federal Hill regularly—the unemployment is much higher there. They have very serious problems. And one of the reasons we have problems is because we are not focusing on anything to do with business. We are not giving them the tools and resources they need to actually hire the people on the unemployment rolls. It is like a catch-22.

Nearly 15 million people across the country are unemployed, 6 million of them having been without work for 6 months or more. That is roughly five people for every one job opening. Families in Massachusetts, Rhode Island, and Illinois are all struggling. They sent that very powerful message a couple of weeks ago. They are struggling to make ends meet and, as the Senator from Rhode Island said, to buy food, to buy shoes, to buy extra Christmas presents. I understand that. But if they had a job and had the pride of going out and working hard each day and if businesses had that certainty of hiring that new employee, they could do that and a lot more. They could actually invest in the future of our country.

We are in the midst of a historic economic crisis. I realize that. People are unable to find work, and I recognize that as well. The longer they are out of

work, the harder it is to actually find work and become employable.

I could go on and on as to how Congress has chosen to spend its time. I remember that before we went on break, before the elections, we wasted so much time on stuff that did nothing to help the economy. So here we are. I figured that when we came back, after the message was sent, we would get it loudly and clearly—big change over in the House. Here we are. We are going to get right back to the economy. But what do we do? We do food safety. Are you kidding me? People deserve better. The people who are unemployed deserve better.

The consequences of our failure to act are the 15 million unemployed workers in our country because they are unable to find that job. So here we are, 6½ hours before the benefits are going to expire. And I do not want to see that happen. Let me make it very clear to anyone listening or watching or however the press wants to regurgitate my statements: I don't want this to happen. It doesn't need to happen. As many of my colleagues know, if we fail to act today, 60,000 Bay Staters will see their unemployment checks evaporate at the end of the week and 800,000 workers will see their checks disappear. That number will increase to 2 million by the end of December.

So we are faced with another important decision, as we are with every other decision we make here: Do we provide the important benefits by burdening future generations, by adding on to that almost \$14 trillion national debt, or do we provide the important benefits by raising taxes on businesses that are already struggling?

If you want to talk about the Bush tax cuts, listen, that was a tax policy proposed by a President, supported by Congress, and it has been the tax policy for the last 10 years. To put a tax increase on anybody in the middle of a 2-year recession is going to add to these unemployment numbers and will be an absolute job killer.

So is there a better way? Of course. There is always a better way, especially when we work together. We can always find a better way, as I have tried to work with the Senator from Oregon and other Senators to find commonsense solutions to our very serious problems. That is why I am once again offering an offset extension of unemployment benefits.

The funny thing is that the proposal—and this is what I find so ironic. I will see where everyone wants to stand. If my colleagues want to do something today, I say to the Senators who are here and listening, we can provide that 1-year extension. In fact, I am offering an offset that was supported by 21 Democrats yesterday when we tried to do the 1099 offset bill, which I supported. I was a cosponsor, in a bipartisan manner. I supported both the Republican and the Democratic proposal just hoping, God forbid, we could get one thing done—just one. Twenty-one Democrats supported that bill.

So here I am with my offer. My proposal is to offset the unemployment insurance—sorry, I need to take a breath here—the offset they supported yesterday would rescind unobligated discretionary funding. It is the same offset we did yesterday. So what is the difference? Do you know what the difference is? People are hurting, and they need the help in 6½ hours. The 1099 fix we can address down the road, but others need it in 6½ hours.

So for those who supported it yesterday, I am certainly hopeful that they will support it again today. I don't know, is it me? I ask my colleagues to join in and be cosponsors. Is it because I am a Republican that we will not pass it? It is because it is my idea? I am the almost new guy. I get that. But what about looking past party politics, as I have done since the day I got here, to try to find commonsense solutions for people who are hurting. And trust me, there are a lot of people hurting. Why don't my colleagues join me in supporting this proposal that 21 other Democrats proposed yesterday and who actually went down in the well and voted on? This is a truly bipartisan proposal that we should be able to rally around. I am confident that we can work together, as the people demanded only a couple of weeks ago.

As we enter the final weeks of this 111th Congress, there are several priorities that lie ahead. As I said earlier—I know I am getting worked up, but it just incenses me—we are here with 6½ hours remaining, and we just found out really today, or late yesterday, that we were even going to talk about this. We have to provide that certainty to businesses, from small mom-and-pop businesses all the way to the biggest corporations. They need to know what is up. They need to know they can actually rely on us to set policy that allows them to plan for the future, so they can get those 9-plus percent people off of unemployment.

Do you think we are going to keep creating more and more government jobs; that is it? We are just going to keep printing the money and there is no consequence? There is plenty of consequence. The consequence is not on our grandchildren now; we are at our great-great-grandchildren as to paying this obligation back.

We still have to ensure that the Federal Government keeps running. Let me see: We have the estate tax issue, we have dealing with tax proposals or policy at all, we are trying to get the regulatory scheme in place so we can give businesses the incentive to maybe bring money back from the offshore accounts they are holding so they do not invest in other businesses in other countries, we have this issue—we have a lot of other things on the table and we have done nothing. We spent time on food safety.

I love to eat. I have seen many people around here, we all love to eat. I want my food safe, make no mistake about it. I do not want to belittle that effort.

But we need to provide money so people can actually go out and buy the food we are trying to make safe. We cannot keep spending and borrowing with no regard to our future, to our fiscal future. We need to be fiscally responsible and find ways to pay for the initiatives and policies that we think are important.

When you talk about the money—listen, it is not the government's money. It is people's money. When they have money, they traditionally invest it, and they invest in businesses and they continue to get that economic engine going. It is not the government's money.

It is also very clear to me that people want to work and they want us to focus on that one issue. I do not know why we are avoiding it—I do not. Did you know we are avoiding that one issue that can get our country back on track? Let's just say we took all the recommendations from the debt commission that have been proposed. If we do not do the other things, it is going to be short-lived, if it works at all.

Creating jobs and supporting policies that improve economic growth have been my priority and will continue to be my focus in the Senate. There is nothing more important. I encourage the administration to immediately drop everything and focus on the economy. It is the one thing that is our ticket out of the economic mess we are in right now; instead, we are doing food safety.

I also think we need to give people that lifeline in order to get them through the tough times. Make no mistake, I agree they need help. But I look at it, are we going to do it from the bank account or are we going to put it on the credit card—bank account, credit card? How about you folks up there—bank account, credit card? OK. I know what I want to do. I will use the bank account. Let's use money that is already in the system and put it to good use immediately by 12 o'clock tonight. Let's do it.

We can settle this tonight. We can provide that extension of benefits tonight. My bipartisan idea will allow that to happen and will prevent millions of Americans from losing their benefits. Providing this 1-year extension will allow us to focus on the many other important priorities we have and that we have to handle before the end of the year.

You want to stay through the holidays and everything. Hey, I am here. Whatever. My kids are grown; they do their own thing anyway. Do I want to stay here? Sure, I will stay. We will stay and we will go out and celebrate Christmas here. Whatever. But we have so many things we need to do and we could do them right now.

I am glad food safety is done. We do not have to do it anymore. So what is next? Let me see—just pick something. I guarantee, I bet—I know betting is illegal here—I will bet we do not do anything that has to do with the economy. I will bet you.

I encourage my colleagues to join with me and stop using the credit card and burdening additional generations with this tremendous debt that we cannot afford.

UNANIMOUS CONSENT REQUEST—H.R. 4915

I ask unanimous consent the Finance Committee be discharged and the Senate proceed to the immediate consideration of H.R. 4915; that all after the enacting clause be stricken and the substitute amendment at the desk be agreed to; that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. REED. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BROWN of Massachusetts. I yield.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, my colleague from Massachusetts has made a rather vigorous and impassioned statement. What I sense, though, is he is quite willing to put \$700 billion of tax cuts for the wealthiest Americans on the credit card but not extend unemployment benefits, as we have done persistently, decade after decade, without offsets, for people who are struggling without work. So if we are talking about coming together, avoiding increased deficits, let's look at this big issue of these tax cuts for the wealthiest Americans. Let's look at the offsets there, I suggest.

I also suggest, in terms of his argument we are not doing anything, that the record, unfortunately, of my colleagues on the other side, with respect to this issue—and we are talking about the issue of unemployment compensation benefits extension—has been one of delay and delay and delay. June 17 of this year we tried to extend these benefits and it failed in a cloture vote. They would not even let us get to the substance of the bill or amendments, perhaps, which could have paid for them or tried to offset them.

Then we came back on June 24, a week later, and had another vote. Of course, again, by 57 to 41 it was opposed.

Now we come to July 20. It finally passed 60 to 40, the minimum number of votes. The vast majority of the opposing caucus still says no.

The notion that we are somehow blocking dealing with the economic issues is so far from reality. What we have seen is obstruction, particularly when it comes to unemployment compensation benefits. Now here we are again. As I said, when you look back to Republican administrations and Democratic administrations, when we have had this level of unemployment, we have always managed to come together and to go ahead and pass these measures on a bipartisan basis and not with three cloture votes but with one perhaps procedural vote and then a substantive vote.

The issue, though, is let's not be selective. If we are serious about the deficit, let's take some positive steps to reduce the deficit. One is not to extend tax cuts to the wealthiest Americans at \$700 billion over 10 years. That is a positive step. If that is something that is going to be entertained by the other side, I encourage that discussion. But as we go forward, we are going to come back, again, because ultimately we have these discussions.

I think my colleague from Massachusetts has passion, sincerity, and great energy which he has brought to this body, but ultimately we are going to have to go to people in Rhode Island and Massachusetts, several million of them over the next year, and say: Sorry, you are not getting any unemployment compensation benefits.

Will we go to the wealthiest and say: Oh, by the way, we took care of you folks; you are getting \$100,000 in tax benefits. I think we have to deal with the immediate crisis. I think we have to deal with the families who are struggling today. I think we have to do it now. I hope our leaders could work out an arrangement where we could come to this floor and, in a scheduled debate, 5 hours on one side, 5 on the other, and take the vote. That has not been the record on unemployment compensation in this Congress.

Again, I object. The issue, the offset, discretionary spending—I think if you burrowed down into that, you would find that would be funds of a whole category of programs that could be spent, should be spent, to help the economy move forward.

But I again urge we reconvene, that we once again see if we can work our way forward on these unemployment compensation benefits. We have done this before through these procedural delays that were as a result of votes by my colleagues on this side not to take up the bill in a timely manner. We had periods of time where unemployment lapsed and we had to retroactively restore it. We may have to do that again.

If there is delay, if we are at the 11th hour, I, frankly, looking backward, and others would have preferred an extension of benefits that would have gone into next year if we had to. We are talking about a year's extension now. I hope we can get that. We will continue to fight.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Madam President, once again, make no mistake, I have great respect for the Senator from Rhode Island. We worked on many regional issues—fishing and military issues. I respect his service not only to the military but also to his State. But I have to respectfully disagree with his presentation and representation on some of the issues.

He keeps referring back to the tax cuts for the rich. That is great. We are not dealing with that right now. It is not something we are dealing with be-

cause we have not dealt with anything to do with any tax policy or structure since I have been here—zero. We have not done the estate tax, we have not done any tax policies, we have not done anything. Now you want to kind of muck it up and talk about if you do this, we should not do that. Listen, we are here, we have 6 hours and 15 minutes to deal with this issue. I am not quite sure why it took so long to get to this point. Why couldn't we have spent the last 7 days, when we were doing food safety, dealing with this? Why? Because there is no priority in taking care of people who are hurting and dealing with the issues that are affecting our economy and our country on a very real and personal basis.

My colleague says there have been delays, we should just do it for longer than 1 year. He wants to do it for longer than 1 year? Great. Pay for it. The reason there have been delays is because we wanted to find a funding source. We could have initially taken it out of the unallocated stimulus dollars that were being used as special slush funds for folks and agencies. That was one of the delays, I remember, being part of that. That didn't pass. I think I got two Democrats.

Yesterday, we did a 1099 fix and 21 Democrats supported it. What is the difference? Now we are talking about real people—about kids. It is about the kids. I keep saying it is about the kids. It is not just about the kids who are here right now; it is about the future generations who are going to have to try to figure out a way to pay for this insurmountable debt.

I reiterate, it is pretty simple—bank account, credit card. That is all I am saying. Happy to help, folks. The folks up there listening, go back and say to your friends and family: Senator BROWN of Massachusetts said bank accounts, credit card. It makes sense.

I want to help. But I also want to streamline, consolidate this, weed out any fraud, waste, abuse, any money we are not using properly, and get it out the door into businesses and families and get the economy moving again.

So here we are. I am very curious to see what is next. I enjoyed the food safety. I voted for it. I gave some input on it, and I voted for it. I am happy to help. It is not going to be implemented in 6 hours and 15 minutes. The people need our help right now.

Madam President, I appreciate your paying attention and leading us. I am just hopeful that we can come together and use some common sense and start to focus on the economy. It is the economy, period.

I yield the floor.

Mr. DURBIN. Madam President, every once in a while, Congress is faced with a policy choice that clearly defines for the American people exactly who each member is fighting for.

We are nearing one of those clarifying moments here on the Senate floor.

Today, the authorization for emergency unemployment insurance expires.

For the 15 million Americans who are struggling to put food on the table as they look for work during this Great Recession, the Republicans are demanding that we cancel the extra assistance we have provided since the economic crisis began.

The Democrats will fight to ensure that this assistance to struggling middle class families continues through the holidays and through next year.

Even as emergency unemployment assistance expires, the Republicans are demanding that the Bush-era tax cuts be extended for everyone.

Most importantly for them, the Republicans are demanding that the wealthiest people in America receive a massive tax cut, on top of the hundreds of billions of dollars of tax cuts they have already pocketed over the last 10 years.

The Republicans don't think a \$6,300 tax cut per year is good enough for millionaires. They are demanding that millionaires receive \$100,000 in tax cuts every single year—and if not, no one should receive anything.

The cost for permanently extending the Bush tax cuts for people making over \$250,000? About \$700 billion over the next 10 years alone. Plus interest.

Meanwhile, the Republicans oppose extending emergency assistance to the unemployed, supposedly because it costs too much.

The cost for extending emergency unemployment assistance for 1 year? About \$60 billion.

Just as importantly, the Republicans are demanding that we spend another \$700 billion on what CBO has determined is one of the weakest options we have for spurring job growth.

The wealthy don't spend extra money they receive. That doesn't drive up demand for goods and services. Employers don't hire more people if they can't sell more things.

At the same time, the Republicans oppose spending \$60 billion on what CBO has determined is one of the strongest options we have for spurring job growth.

The unemployed spend every extra penny they receive as they buy the bare necessities, so aggregate demand gets a boost. Employers hire more people when they can sell more things.

Democrats oppose spending \$700 billion we don't have on tax cuts that don't help people get back to work.

We support spending less than 10 percent of that amount—\$60 billion—on assistance to the unemployed that does help people get back to work.

We have seen this movie before, of course.

Republicans opposed extending the TANF Jobs program, which helped create 250,000 new jobs and which even some Republican Governors applauded as an example of smart government. That program expired at the end of September.

They oppose extending the Obama tax provisions from the Recovery Act which benefit middle-class Americans, including the earned-income tax credit, the child tax credit, and the making work pay credit. Those provisions expire at the end of the year.

We can't afford those, they say. But we can afford to give another \$700 billion to the wealthiest 2 percent of Americans, according to the Republicans.

We have the money for the equivalent of another economic recovery bill but we can't afford a small fraction of that cost to help middle-class families who need a helping hand.

The difference between the Republicans and Democrats couldn't be more clear.

Republicans won't allow tax cuts for anyone unless the rich get a far bigger share, and won't allow those looking for work to receive any continued emergency assistance.

The Democrats, on the other hand, want to give 98 percent of Americans a tax cut, and want to help the unemployed keep food on the table for their children while they compete with the other 15 million unemployed Americans in looking for work.

The PRESIDING OFFICER. The Senator from Washington.

RED FLAG PROGRAM CLARIFICATION ACT OF 2010

Mrs. MURRAY. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3987, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant editor of the Daily Digest read as follows:

A bill (S. 3987) to amend the Fair Credit Reporting Act with respect to the applicability of identify theft guidelines to creditors.

There being no objection, the Senate proceeded to consider the bill.

DEFINITION OF CREDITOR

Mr. THUNE. Madam President, I wish to engage my colleagues Senator DODD and Senator BEGICH in colloquy.

I rise today in support of S. 3987, the Red Flag Program Clarification Act of 2010, legislation that Senator BEGICH and I have introduced to narrow the scope of section 114 of the Fair and Accurate Credit Transactions Act of 2003—the FACT Act. This section of the FACT Act directed financial regulatory agencies, including the Federal Trade Commission, FTC, to promulgate rules requiring “creditors” and “financial institutions” to implement programs to detect and respond to red flags—patterns, practices, or specific activities—that could indicate identity theft.

The purpose of the Red Flag Program Clarification Act of 2010 is to identify and limit the type of “creditor” that must be covered. If the FTC's final red flags rule is implemented, this rule could require small businesses to un-

dertake costly, burdensome measures to prevent identity theft in industries where it poses little threat. Identity theft is a serious problem, but the definition of “creditor” for purposes of the FTC's red flags rule is too broad and would cover small businesses that pose little risk to consumers.

Under the legislation that Senator BEGICH and I are proposing, only a “creditor” that regularly and in the ordinary course of its business obtains or uses consumer reports in connection with a credit transaction, furnishes information to consumer reporting agencies in connection with a credit transaction, or advances funds would be required to develop and implement a written identity theft prevention and detection program.

So, for example, an accountant would not become a creditor simply for obtaining a consumer report—with the permission of any consumer whose report is obtained—in order to examine the integrity of a company's management.

And the legislation makes clear that an advance of funds does not include a creditor's payment in advance for fees, materials, or services that are incidental to the creditor's ability to provide another service that a person initiated or requested, such as the advance payment of expert witness fees by a lawyer to support the representation of a client.

Any other type of creditor may only be covered through a rulemaking based upon an agency's determination that these types of creditors offer or maintain accounts that pose a reasonably foreseeable risk of identity theft. Such creditors would receive notice that they could be covered by a rule, and there would be a public airing of the issues when the proposed rule is published for notice and comment.

Could Senator DODD, as chairman of the committee of jurisdiction, the Senate Banking Committee, provide us with some context regarding the legislation under which the FTC's rule was promulgated?

Mr. DODD. Gladly. The FTC's red flags rule implementing section 114 of the FACT Act became effective on January 1, 2008. The rule applied to “creditors,” defined under the FACT Act the same way as in the Equal Credit Opportunity Act, ECOA, to include any person that sells a product or service for which the consumer can pay later.

After the red flags rule became final, many businesses and other entities indicated that they were not aware that they would be covered by this rule. At first, the FTC delayed enforcement of the rule several times to allow these entities time to come into compliance with the rule. Then, a number of professional organizations, including the American Bar Association and the American Medical Association, sued the FTC for taking the position that professionals were “creditors” when they allowed consumers to pay later, and would have to comply with its red

flags rule. On May 28, 2010, the FTC announced that it would delay enforcing its red flags rule through December 31, 2010, and asked Congress to pass legislation that would resolve any questions about which entities should be covered as “creditors” and to obviate the need for further enforcement delays.

Mr. BEGICH. I thank the Senator. Unless this bipartisan bill becomes law, many small businesses for which identity theft is not a threat could be required to spend time and effort to comply with the red flags rule implementing the FACT Act. This could require them to take time away from growing their businesses and creating jobs. Small businesses are the economic driver of our country, and in a time of high unemployment and stagnant economic growth, businesses should be focused on job creation, and should not have to spend the money to comply with regulatory burdens disproportionate to the scope of the identity theft problem.

This bill would address what the chairman of the FTC, Jon Leibowitz, called “the unintended consequences of the legislation establishing the red flags rule.” While this list isn’t exclusive, many small businesses such as doctor’s and dentist’s offices, pharmacies, veterinary clinics, accounting offices, and other types of health care providers and other service providers were classified as “creditors” because they sometimes let clients pay after they provide their services. This legislation makes clear that these small businesses should not be swept under the red flags rule in the future just because they allow payment to be deferred, when they don’t offer or maintain accounts that pose a reasonably foreseeable risk of identity theft.

I would ask the chairman of the Banking Committee if he agrees with my description of what the Red Flag Program Clarification Act of 2010 will accomplish?

Mr. DODD. Yes, I agree that this bill narrows the applicability of the red flag identity theft provisions of the FACT Act to cover those creditors where identity thieves can do the most harm—creditors that use consumer reports, furnish information to consumer reporting agencies, and other creditors that loan money, such as payday lenders, that do not necessarily use consumer reports or furnish information to consumer reporting agencies.

The legislation also makes clear that lawyers, doctors, dentists, orthodontists, pharmacists, veterinarians, accountants, nurse practitioners, social workers, other types of health care providers and other service providers will no longer be classified as “creditors” for the purposes of the red flags rule just because they do not receive payment in full from their clients at the time they provide their services, when they don’t offer or maintain accounts that pose a reasonably foreseeable risk of identity theft.

Mr. THUNE. I applaud the FTC’s cooperation in delaying implementation

of their red flags rule to wait for congressional clarification on this issue and thank Senator DODD for his assistance in drafting this legislation. I am confident that our efforts to provide a legislative solution that protects consumers and businesses alike can be achieved through this legislation.

Mrs. MURRAY. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Red Flag Program Clarification Act of 2010”.

SEC. 2. SCOPE OF CERTAIN CREDITOR REQUIREMENTS.

(a) AMENDMENT TO FCRA.—Section 615(e) of the Fair Credit Reporting Act (15 U.S.C. 1681m(e)) is amended by adding at the end the following:

“(4) DEFINITIONS.—As used in this subsection, the term ‘creditor’—

“(A) means a creditor, as defined in section 702 of the Equal Credit Opportunity Act (15 U.S.C. 1691a), that regularly and in the ordinary course of business—

“(i) obtains or uses consumer reports, directly or indirectly, in connection with a credit transaction;

“(ii) furnishes information to consumer reporting agencies, as described in section 623, in connection with a credit transaction; or

“(iii) advances funds to or on behalf of a person, based on an obligation of the person to repay the funds or repayable from specific property pledged by or on behalf of the person;

“(B) does not include a creditor described in subparagraph (A)(iii) that advances funds on behalf of a person for expenses incidental to a service provided by the creditor to that person; and

“(C) includes any other type of creditor, as defined in that section 702, as the agency described in paragraph (1) having authority over that creditor may determine appropriate by rule promulgated by that agency, based on a determination that such creditor offers or maintains accounts that are subject to a reasonably foreseeable risk of identity theft.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of enactment of this Act.

The PRESIDING OFFICER. The Senator from Washington.

UNEMPLOYMENT INSURANCE REAUTHORIZATION

Mrs. MURRAY. Madam President, I came to the floor this afternoon to speak on behalf of thousands of families in my home State of Washington who stand to lose everything they have because a few Republican Senators continue to put politics ahead of policy. Men and women in my State from Seattle to Spokane, who lost their jobs through no fault of their own, get up

every single day; they scour the want ads; they send out their resumes and desperately try to find work in an economy that continues to struggle. These workers do not want to be where they are. They would like nothing more than to be back on the job doing what many of them have been doing for years—working hard and adding value to their companies and contributing to their communities and providing for their families.

But while they struggle to find work, many of them depend on the unemployment insurance programs we put in place to keep their heads above water. This support has allowed these families to put food on the table, to stay in their homes, and to pay for their children’s health care. These programs are not extravagant. But for a lot of our workers today, they made all the difference.

Workers such as a woman named Judy Curtis, who lives in Mill Creek, WA, wrote to my office urging us to do everything we could to reauthorize this program. She is a single mom who worked hard her whole life to support herself and her developmentally disabled son Sean. She told me she has been laid off twice since this downturn began and has been looking for a new job every day but without any luck.

Her unemployment insurance is going to be cut off on January 15 unless we reauthorize it. She does not know how she and her son are going to make it if that happens. So it is because of stories like hers that I am so disappointed we are once again throwing families into a state of uncertainty and turmoil by allowing these emergency unemployment programs to expire today. It does not make any sense.

Our economy still has a long way to go on the road to recovery. There are five job seekers for every open position today. The unemployment rate stands at 9.6 percent, and Senate Republicans think now is a good time to cut families off from the support on which they depend? We cannot allow this to happen. We cannot sit on the sidelines while more families are pushed into bankruptcy and lose their health care and their homes are foreclosed on. We cannot stand by and watch as our working families who have already been pushed to the brink by this financial crisis—that they did not create by the way—are now shoved to the edge through no fault of their own. It is wrong and it does not make sense. It does not make sense to pull billions of dollars out of our economy. It does not make sense to remove purchasing power from so many families. And it does not make sense to lose the multiplier effect of these funds that keep millions of workers on the job. It certainly does not make any sense to do this right before the holidays.

I have to say, I find it very interesting that some of the Senators who oppose extending this support for middle-class families are the very same ones who have no problem extending

the Bush tax cuts for the richest Americans that will cost us almost \$1 trillion. They talk about helping the economy. But economists across the board agree that unemployment insurance programs are one of the best ways to provide a much needed boost. So for those Republicans it is not about the deficit, it is not about what is best for the economy, it is certainly not about good policy, it is about politics, plain and simple.

I am going to keep fighting to maintain these emergency unemployment compensation benefits through next year for Judy Curtis's family, for thousands of families like hers across Washington State, and for millions in America. These programs were not meant to continue indefinitely. But until our economy gets back on track, it would be devastating to cut those families off from this critical lifeline now.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Dispatch proceeded to call the roll.

Mr. BROWN of Ohio. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

Mr. BROWN of Ohio. I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNEMPLOYMENT COMPENSATION

Mr. BROWN of Ohio. Mr. President, I come to the floor to share letters from Ohioans from all corners of my State, letters mostly from people who have lost their jobs and depend on something called unemployment insurance. It is insurance, not welfare, not giveaways. People work at a business. Their employer pays into the unemployment insurance fund. Obviously, it is money the employee does not get as income, so we could say it either way: the employee pays or the employer pays. Either way it is insurance. They pay into a fund. When someone loses their job, they get assistance from the fund. This is why it works so well.

When the unemployment rate is above a certain level, a relatively high unemployment rate, we always have extended and maintained unemployment insurance benefits for those workers who have lost jobs. We do that for two reasons: One, because it is the right thing to do if someone loses their job. Whether it is in Boulder in the State of the Presiding Officer or in Galion, OH, it is the humanitarian thing to do. That worker who has lost their job can at least pay most of their bills then, at least stay in the apartment or house and pay the mortgage, pay the rent, pay for food, take care of the kids. They wouldn't be able to without the unemployment insurance monthly payments.

The second reason we do it is, as one of JOHN MCCAIN's chief economic advisers said repeatedly, a dollar in unemployment benefits is about the best stimulus for the economy one could have. When we give a tax cut to a millionaire, as most of my Republican colleagues want to do, if we give \$10,000 to a millionaire, they will likely not spend it. They have already spent their money on what they want because they have more than enough to do that. So a tax cut doesn't mean much to them. But an unemployment check means that an unemployed worker will spend that money in the community, at the grocery store, buying shoes for the kids, paying the property tax, paying for their rent and gas bill, paying for gas in the car to go around looking for jobs. The money is recirculated. It is a good economic stimulus and the right thing to do for the worker who has lost their job. That is why the Presiding Officer and others have fought so hard to make sure those benefits are there. It is not welfare; it is insurance.

In spite of what some conservative politicians like to suggest, that it is people sitting around who don't want to work, almost everybody I talked to—whether it was in Conneaut or Middleton or Sidney or Portsmouth—who lost a job wants to go back to work. Unemployment compensation is never as much as the person is making on the job. That is under a formula. That is why they want to go back to work. Plus these are hard-working people who understand that they need to keep looking for a job.

For every job out there, there are roughly five people seeking a job. That is a national figure. But in Ohio, it is no better. That is why I am going to share these letters.

I will start with Timothy from Fairfield. That is a prosperous suburban Cincinnati community in Butler County in southwest Ohio. It happens everywhere, not just the inner city, not just rural Appalachia. It is not just small towns or medium-size cities. It is generally pretty affluent suburbs.

He writes:

Unemployment extensions end in about two weeks and once again my family worries about what the future will bring.

The last delay made us unable to pay many bills on time and we still have not fully recovered.

If another delay happens we will certainly be put in such a hole that I don't see us getting out of.

Not to mention it's the holiday season and I really don't know what I would tell my 4 and 7 year old if Christmas wasn't as it has been in the past.

I am in the manufacturing field. I worked as an inspector and quality engineer.

This next week will be my first of my final 20 weeks of Ohio emergency unemployment. I search for openings in quality inspectors and quality engineers within a 50 mile radius of our town.

How is he going to afford gas if his unemployment extension runs out?

I found zero results. I have been applying for retail jobs, janitorial jobs, and maintenance jobs.

If I even get to interview the answer is the same. You are way overqualified for this job.

I was told that the new sporting goods store had over 3,000 applicants.

Are both sides willing to do what needs to be done to avoid another delay? I don't know what we will do if the extension is not passed in time.

It is unbelievable that my conservative colleagues are willing to give tax cuts to millionaires and billionaires but are unwilling to maintain unemployment benefits for people such as Timothy. When one thinks about that, it is also the anxiety that somebody like Tim feels about his children, about his house, about his being able to provide what he needs during the Christmas season or any other season. So many people in this country have to wait until the Republicans drop their filibuster in order for us to maintain these benefits. That is pretty unconscionable.

Kelly from Summit County, the Akron area in northeast Ohio, writes:

Please help get the unemployment extension passed during this session.

I am about to exhaust my benefits in three weeks. Everyday I look for employment, but to no avail.

My mortgage company leaves no room for late or missing payments.

I don't need the money for Christmas—I need it to pay my bills and my mortgage.

There will be no Christmas this year, especially when I begin to get behind on payments.

Kelly says what so many are saying in letters to our office, that this is essential. Getting this relatively meager unemployment assistance, not a lot of money but enough to at least pay her rent—although I don't know if Kelly is male or female—but to pay the rent, not Christmas presents, nothing elaborate, not even Christmas dinner but to just pay the rent.

Richard from Summit County says:

I am writing to share the reality of my situation that I'm sure millions are also experiencing. Today I filed my final claim for unemployment. This is the moment that made me lay awake at night. The reality is at our home there will be no Thanksgiving and no Christmas this year. I hear carols being played, I see ads for Christmas sales. It makes me depressed like never before. I feel the gifts and celebrations are meant for other people—the "haves." No more money for my diabetes medicine, dental checkups, eye drops for glaucoma. Never have I felt like throwing in the towel before now.

I just wish my colleagues would talk to people like Richard: When I hear carols being played for Christmas sales, it makes me depressed like never before. I feel the gifts and celebrations are meant for other people. No more money for my diabetes meds, no more dental checkups, no more eye drops for glaucoma.

Unemployment benefits are not going to make him comfortable or rich, but it will help him get through these rough times. Instead, to make a political point, my colleagues are saying we are not going to maintain unemployment benefits.

The last one I will read is from Jacqueline from Cuyahoga County in the Cleveland area:

I have been an unemployed human resources professional for a year and a half. Even after having applied for over 170 jobs, I am still very active in my job search.

These are not people sitting around cashing their checks. She is still very active in her job search.

I go to at least 2 networking events/meetings per week and I keep a positive attitude in spite of my situation. Yes, I have applied for jobs in other fields or professions which use similar and transferable skills. I get no response. I have worked with recruiters and head hunters, online networks, and have appealed to friends and family members to look for opportunities. I have worked full-time since I was 16 years old, even through college. At age 45 and as an educated professional with so much to offer an organization, I still want to work for many more years.

She has worked since she was 16. She is now 45. She has worked twice as long as almost the age of these pages who sit in front of us. She has worked for 29 years. She is not a deadbeat. She doesn't want to sit around and collect unemployment. She wants a job. As I said, there are five people pursuing every job out there.

Without unemployment benefits, my family would have lost our home by now. I am begging you to fight to extend unemployment benefits until more companies start hiring. Please don't let 15 million Americans have to worry about feeding their families this winter. Please urge your colleagues to pass an unemployment benefit extension before December 1.

December 1 is approaching. We still can't get our Republican colleagues—it is pretty unbelievable. We have been through this for the third time, I believe, in the last year or so where we have begged and cajoled and pleaded and asked and done whatever we can to get our colleagues to say yes, to not filibuster, to get our colleagues to say yes, to get the supermajority, the 60 votes we need to extend the unemployment benefits.

There is a lot of fear out there. Whether it is in Denver or Cleveland, whether it is in Trinidad or Mansfield, there is all kinds of anxiety and fear and anguish out there. We could do something in this body to lessen it for our fellow Americans.

I ask my colleagues to move forward in maintaining unemployment benefits for the millions of Americans for whom the Christmas season, the holiday season will not be very happy this year.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN of Ohio. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMPAIGN TO STOP BULLYING

Mr. BROWN of Ohio. Over the last few months, our Nation has mourned the loss of several lesbian, gay, bisexual, and transgender teenagers driven to suicide because of hateful and ignorant bullying and harassment. These tragic circumstances brought families, friends, and concerned citizens together through vigils on public squares in communities all over this country and on college campuses throughout the Nation. Together, millions of fellow Americans have drawn attention to intolerance and violence that LGBT Americans face each day. Together, we can ensure all LGBT Americans that life will get better for them.

As a father, I cannot bear to imagine the unspeakable pain endured by the parents of those teenagers who tragically took their own lives. No parent should have to bury a child. No child should ever feel so hopeless and so forgotten and so alone and so isolated that suicide seems like their only escape. But the rash of highly publicized suicides of LGBT students not only highlights the national epidemic of bullying these students face, it also reminds us that we all as adults, as clergy, as educators, or as peers of these students—we all have a role to play in preventing discrimination.

Bullies target the vulnerable and subject them to cruelty through taunts in the classroom or on the Internet, through chants on the playing field or physical abuse in the neighborhood. Prejudices based on religion or race or disability or sexual orientation or gender or physical or intellectual differences too often translate into physical torment and isolation and abuse against others.

LGBT youth, in particular, are frequently targeted by bullies. Public surveys indicate that 80 percent of LGBT students report regular harassment by fellow students—a rate three times that of heterosexual teens, three times the rate of their heterosexual peers. Seventy-five percent of high school students routinely hear homophobic remarks in school, reinforcing stereotypes and prejudices. Without a safe space to speak openly with a caring adult or a like-minded peer, victims are left to question their self-worth.

On top of the self-doubt and insecurity that all young people feel already regardless of gender or race or sexual orientation—we have all been through that certainly as young teenagers and older teenagers, too, for that matter, but add to that the kind of insecurities that are put on them by bullying tactics, by so many people spouting homophobic remarks.

Too many young gay men and women, boys and girls, are forced into secrecy about who they are rather than affirming the person they should proudly be.

A brave young Ohioan named Nicholas sent me a letter detailing an attack by a schoolyard bully. Here is what Nicholas wrote:

On September 18th, 2009 I was attacked by a student at my school for being gay. This student beat me in the head with a hammer three times. He chased me down so he could get the last two hits. The student attacked me for being gay. I have no way of using this attack to promote gay rights, to promote gay equality, but you do. And you could do this for me. I need your help more than anything. No one deserves to go through what I went through.

My message to Nicholas and to all LGBT Americans is this: You are not alone. Life will get better. You can find the love and acceptance you deserve, and you will find the love and acceptance you deserve, free from fear and hate. You will realize your full potential every bit as much as anyone else because things are changing in this country.

There is no acceptable justification for the violence experienced by Nicholas or the physical and emotional mistreatment of LGBT students in our schools and in our communities. That is why the Senate must take crucial steps to ensure that schools are safe places for learning, safe places for students, and not breeding grounds for bullying.

First, we must pass the Safe Schools Improvement Act which would help schools implement LGBT-inclusive programming to combat bullying and harassment. Second, we must pass the Student Nondiscrimination Act which would bar schools which receive public money from implementing programs that discriminate based on sexual orientation or gender identity.

Legislation alone, of course, will not eradicate or put an end to bullying, but we also know what legislation did for women, for children, for civil rights. Attitudes change over time. Legislation helps accelerate that change. That is why those two pieces of legislation matter. They will be major steps toward ensuring safety and equal treatment for all students in our school systems.

Parents and teachers also have a special responsibility to help LGBT youth confront the bullying they face at school. They, too, should ensure that every student knows she is valued, knows he is valued, regardless of sexual orientation or gender identity.

LGBT community centers or national organizations such as the Gay, Lesbian and Straight Education Network are valuable resources for students, parents, and educators.

I remember several years ago an event where students sat together as part of a gay/straight alliance at a high school in western Cuyahoga County. There were 10 students at 2 different tables, 5 gay students, 5 straight students, all supporting one another, understanding each other and accepting their differences. They can still care about one another, and they can protect them, in many cases, from some of the bullying that might have befallen some of them.

To our own LGBT students who are either forced to live a lie or face hostility for simply living their lives, all

of you should know there are resources to help you in times of need. The Trevor Project is the leading national organization focused on crisis and suicide prevention among lesbian, gay, bisexual, transgender, and questioning youth. For more information, if you are feeling alone, anyone watching today feeling alone, helpless, or in crisis, people can visit the Trevor Project's Web site, thetrevorproject.org, or they can call the hotline at 866-488-7386.

For anyone who is in suicidal crisis or in need of help, the National Suicide Prevention Lifeline is available 24 hours a day, 7 days a week by calling 1-800-273-TALK.

To Nick: I don't normally come to the floor and talk about a service like this. I think, though, when people feel alone, they don't always know there is help out there for them. Young people need to know that it is getting better, that life will get better for them, so it is important to share that information on the Senate floor.

To Nicholas: History is on your side. It will, in fact, get better. Workers fought for the right to organize, women fought for the right to vote, African Americans fought for equal justice, and now LGBT Americans of all backgrounds are fighting for equality.

It is up to us to join this fight. It is up to us to be on the side of people whose lives are a little bit more difficult, perhaps, than others' lives. It is that spirit of inclusion, it is the pursuit of the American dream, that will, in fact, make it better for these young people, and it will make it better for all Americans.

I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COIN MODERNIZATION, OVERSIGHT, AND CONTINUITY ACT OF 2010

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 6162 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The assistant bill clerk read as follows:

A bill (H.R. 6162) to provide research and development authority for alternative coinage materials to the Secretary of Treasury, increase congressional oversight over coin production, and ensure the continuity of certain numismatic items.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6162) was read the third time and passed.

AMERICAN EAGLE PALLADIUM BULLION COIN ACT OF 2010

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 6166 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The assistant bill clerk read as follows:

A bill (H.R. 6166) to authorize the production of palladium bullion coins to provide affordable opportunities for investments in precious metals, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6166) was read the third time and passed.

COMMEMORATING THE 175TH ANNIVERSARY OF THE BIRTH OF MARK TWAIN

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 690, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant bill clerk read as follows:

A resolution (S. Res. 690) commemorating the 175th anniversary of the birth of Mark Twain.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 690) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 690

Whereas Mark Twain was born with the name Samuel Langhorne Clemens on November 30, 1835, in Florida, Missouri, the 6th child of John Marshall and Jane Lampton Clemens;

Whereas in 1839, the Clemens family moved to Hannibal, Missouri, the inspiration for the fictional town of St. Petersburg depicted in the novels "The Adventures of Tom Sawyer" and "Adventures of Huckleberry Finn", where the Clemens family lived until 1853, including several years of residence at 206 Hill Street, known as the boyhood home of Mark Twain;

Whereas in 1848, Samuel Clemens left school to become a printer's apprentice at the Missouri Courier newspaper, his first in a series of occupations that include, most notably, author, but also, printer, typesetter, steamboat pilot, journalist, lecturer, publisher, editor, prospector, and political activist;

Whereas while working at the Virginia City newspaper, the Territorial Enterprise, Clemens first used the pen name "Mark Twain" in 1863;

Whereas with the publication of the short story "Jim Smiley and His Jumping Frog" in The Saturday Press in 1865, Mark Twain experienced his first significant success as an author;

Whereas in 1869, Twain's first book, "The Innocents Abroad", was published, detailing Twain's adventures through Europe and the Middle East;

Whereas Samuel Clemens, known for the love and affection he demonstrated for his wife and family and to whom the quote, "What is a home without a child?", is attributed, in 1870 married Olivia Langdon, with whom he had 4 children, Langdon, Olivia Susan, Clara Langdon, and Jane Lampton;

Whereas the book "Roughing It", part autobiography and part tall tale, chronicling Twain's adventures in the early American West and critiquing society's treatment of Chinese Americans, was published in 1872;

Whereas "The Gilded Age: A Tale of Today", a novel Twain wrote in collaboration with Charles Dudley Warner satirizing political corruption and greed in American life, was published in 1873;

Whereas Twain's novel, "The Adventures of Tom Sawyer", through which he sought "to pleasantly remind adults of what they once were themselves, and of how they felt and thought and talked, and what queer enterprises they sometimes engaged in", was published in 1876;

Whereas in 1881, Twain addressed class issues and attacked injustice and hypocrisy in English society with the publication of his novel, "The Prince and the Pauper";

Whereas in 1883, "Life on the Mississippi", Twain's book exploring the history and lore of the Mississippi River and detailing his time spent as a Mississippi River steamboat pilot, was published;

Whereas Mark Twain's most famous work, "Adventures of Huckleberry Finn", which attacked the institution of slavery, the failures of Reconstruction, and the continued mistreatment of African Americans in American society, and which is considered a masterpiece of American fiction and is widely known as one of the Great American Novels, was published in 1884;

Whereas Twain's powerful social critique, "A Connecticut Yankee in King Arthur's Court", was published in 1889;

Whereas "The Tragedy of Pudd'nhead Wilson", Twain's strongest critique of racism and the institution of slavery, was published in 1894;

Whereas on April 21, 1910, Samuel Clemens died at the age of 74; and

Whereas the 175th anniversary of the birth of Mark Twain is an historic occasion: Now, therefore, be it

Resolved, That the Senate commemorates the 175th anniversary of the birth of Mark Twain on November 30, 2010, and his enduring legacy as one of our Nation's greatest authors and humorists.

PERMITTING USE OF SENATE BUILDINGS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 691, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant bill clerk read as follows:

A resolution (S. Res. 691) to permit the collection of clothing, toys, food, and housewares during the holiday season for charitable purposes in Senate buildings.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN of Ohio. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 691) was agreed to, as follows:

S. RES. 691

SECTION 1. COLLECTION OF CLOTHING, TOYS, FOOD, AND HOUSEWARES DURING THE HOLIDAY SEASON FOR CHARITABLE PURPOSES IN SENATE BUILDINGS.

(a) IN GENERAL.—Notwithstanding any other provision of the rules or regulations of the Senate—

(1) a Senator, officer, or employee of the Senate may collect from another Senator, officer, or employee of the Senate within Senate buildings nonmonetary donations of clothing, toys, food, and housewares for charitable purposes related to serving those in need or members of the Armed Services and their families during the holiday season, if the charitable purposes do not otherwise violate any rule or regulation of the Senate or of Federal law; and

(2) a Senator, officer, or employee of the Senate may work with a nonprofit organization with respect to the delivery of donations described in paragraph (1).

(b) EXPIRATION.—The authority provided by this resolution shall expire at the end of the 2nd session of the 111th Congress.

Mr. BROWN of Ohio. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HAGAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

LANCE CORPORAL BRANDON W. PEARSON

Mr. BENNET. Mr. President, it is with a heavy heart that I rise today to

honor the life and heroic service of LCpl Brandon W. Pearson. Lance Corporal Pearson, who was assigned to the 3rd Battalion, 5th Marine Regiment, Regimental Combat Team-2, I Marine Expeditionary Force Forward, 1st Marine Division, out of Camp Pendleton, CA, died on November 4, 2010, from wounds he received while supporting combat operations in Helmand Province, Afghanistan. He was 21 years old.

A native of Colorado, Lance Corporal Pearson graduated from Ralston Valley High School in Arvada. He was serving his second tour of duty. Although this was his first tour in Afghanistan, his battalion was assigned to one of the most dangerous districts in Helmand Province.

During his 3 years of service, Lance Corporal Pearson distinguished himself through his courage, dedication to duty, and willingness to take on any job. He was given numerous awards and medals, including the Marine Corps Good Conduct Medal, the Afghanistan Campaign Medal, the Global War on Terrorism Service Medal, and the National Defense Service Medal.

Lance Corporal Pearson worked on the front lines of battle, serving in the most dangerous areas of Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. Friends and loved ones remember Lance Corporal Pearson's dedication to friends and family. He was always there when someone was in a tight spot. His decision to serve influenced a close friend to join the Marines as well. All remember his unwavering bravery.

Mark Twain once said, "The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time." Lance Corporal Pearson's service was in keeping with this sentiment by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America's citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Lance Corporal Pearson will forever be remembered as one of our country's bravest.

To Lance Corporal Pearson's entire family—I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Brandon's service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

UNITED STATES-KOREA FREE TRADE AGREEMENT

Mr. LEVIN. Mr. President, as our economy struggles to recover from the worst recession since the Great Depression, we must look at all ways to cre-

ate jobs here at home. One obvious way to create jobs is to sell more products to overseas markets. That's why President Obama has announced the goal of doubling U.S. exports by the year 2015. That is an admirable goal and one that I support.

To achieve that goal we have to examine our trade policies and change them when they are not working. That is surely what we need to do when it comes to the so-called U.S.-Korea Free Trade Agreement and automotive trade.

This agreement, still being negotiated, would perpetuate an unlevel playing field that unfairly disadvantages U.S. automotive exports. One of the reasons the agreement has not been brought before the U.S. Congress for approval is because the agreement is skewed in favor of Korean automakers.

The Bush administration made a major error in how it approached the growing field of electric vehicles during treaty negotiations. The agreement would allow for a 10 year phase-out of the 8 percent Korean tariff on hybrid electric passenger vehicles and the 2.5 percent U.S. tariff. This is not a fair deal for U.S. electric car exports. It's bad enough that the current Korean electric car tariff is more than three times the U.S. tariff. This agreement would lock in place for 10 years Korea's electric car tariff advantage as it is phased out. Why in the world would we agree to that?

It is as if you beat me up eight times a day and I beat you up two times a day and you expect me to be happy when you reduce that beating to seven times per day—that is still not much of a deal for me.

It is a stubborn thing this image some people have of free trade. It is like a blind faith belief that any trade agreement is automatically good for the United States. This seems to hold true no matter how many American jobs may have been lost as a result of unfair trading practices by our trading partners and no matter how bad a deal a specific free trade agreement might be for certain sectors in the United States. The response always seems to be the same for those that criticize an unbalanced free trade agreement: they call the critics protectionists.

The protectionism enmeshed in the U.S.-Korea trade relationship is protectionism by Korea. Until 1989 Korea did not even allow imported autos into its market. Once it did officially allow imported vehicles into its market, Korea found other, less visible ways of keeping them out, including maintaining tariff and nontariff barriers, such as discriminatory taxes based on engine size, unique standards, inadequate regulatory transparency, and inadequate ability of stakeholders to provide input at an early stage into the development of regulations and standards.

When it comes to automotive trade with Korea, the numbers tell the story. Korea has free unfettered access to the U.S. market and we have extremely limited access into Korea's market.

Last year Korea shipped 476,833 autos to the United States. And while Korea relies on exports to support its domestic auto makers, Korea remains one of the most closed auto markets in the world. In a market of almost 1.5 million annual vehicle sales, the U.S. exported just 5,878 autos to Korea last year. And it's not just American autos that are being kept out. Vehicles made in Korea account for 94 percent of the Korean market—only 6 percent of vehicles sold in Korea are imports. That is lower than every other developed country except Japan. In the U.S., over 41 percent of our auto market is made up of imports. In Germany that number is 55 percent, in Mexico it is 57 percent, and in Spain, Canada and Italy it is over 70 percent or higher.

Korea's protected automotive market provides a huge source of profit and jobs for Korea and, in contrast, it is a huge source of trade deficits and job loss for the United States. About 74 percent of the \$10.6 billion U.S. trade deficit with South Korea is in automotive trade.

So to those who say we are protectionist when we complain about this, I respond that we are not the protectionists and we have not protected our automotive market. The nearly 500,000 Korean-made vehicles that come into the U.S. market each year validate this point, as does our 2.5 percent auto tariff compared to Korea's 8 percent auto tariff and numerous non-tariff barriers that keep our vehicles out of Korea.

Despite efforts by the U.S. Government for over a decade to open the Korean auto market, Korea has successfully kept its market closed. Auto-specific agreements negotiated in 1995 and 1998 failed to make any progress in opening Korea's automotive market. Although the previous agreements were intended to sweep away some of the most overt non-tariff barriers, Korea quickly replaced them. For instance, the year after the 1998 auto-specific agreement was signed committing Korea to, "Not take any new measures that directly or indirectly adversely affect market access for foreign passenger vehicles" Korea introduced three new and unique auto safety standards: front tow hook, headlamp, and remote keyless entry. In the 3 years after that, Korea introduced seven more auto safety and emissions regulations. And in the 4 years after that, Korea introduced another seven, and the list continues. Our protests were for naught.

Any trade agreement with South Korea should level the playing field for U.S. auto exports. Unfortunately, the pending agreement, reached more than 3 years ago but now being renegotiated, leaves South Korea with the effective ability to use rules and regulations to continue limiting automotive imports into the Korean marketplace. Korea has used such rules and regulations before to discriminate against imported vehicles and they will be used again unless we have a strong mechanism to

remove them. This agreement does not include such a mechanism to deal with any new nontariff barriers, such as auto safety standards or emissions regulations that Korea could introduce once the current draft agreement is entered into and approved by the Congress.

The agreement is strongly opposed by Ford and Chrysler because the agreement does not ensure that South Korea will not take measures to impede access of imported U.S. made cars. GM is neutral on the agreement because it gained access to the Korea market by buying Daewoo, not by exporting cars to Korea from the United States.

Ensuring fair access to the Korean market would have an important impact on our auto industry's drive to regain its competitive strength and health. We need to fight for American jobs, not let them go overseas as a result of poorly negotiated trade agreements. We need to find a way to gain meaningful access to Korea's auto market and so far this trade agreement has not achieved that goal.

CLAIMS RESOLUTION ACT OF 2010

Mr. BAUCUS. Mr. President, I rise today regarding the Claims Resolution Act of 2010. It is a rare day in the Congress that we have an opportunity like this to end, once and for all, decades-old injustices and water related claims against the government so that we can move forward together. I am proud that the House of Representatives passed the Claims Resolution Act, which passed the Senate by unanimous consent on Friday, November 19.

The Claims Resolution Act of 2010 includes the Cobell settlement, which settles claims resulting from mismanagement of trust accounts of close to 300,000 American Indians.

It includes the Pigford settlement, which settles discrimination claims by black farmers against the USDA.

It settles water related claims of tribes in Arizona, New Mexico, and Montana.

The bill is fully offset.

Each settlement in this package has its own history—each compelling in its own regard—that has brought us to this day of resolution. I want to focus in particular on the Cobell settlement and the Crow Water Compact, which are both so important to Montana.

Tribal members comprise over 6 percent of Montana's population. American Indians live in every county in Montana, and our State has several counties where more than half of the population is comprised of tribal members. Nine percent of Montana's land base is located within the boundaries of our State's seven Indian Reservations.

The Cobell settlement resolves the class-action lawsuit brought by Native American representatives and lead plaintiff Elouise Cobell, a member of the Blackfeet Tribe in northwestern Montana, against the U.S. Govern-

ment. This case dealt with the mismanagement of Indian trust assets by the U.S. Government.

In 1887 the Federal Government allotted tribal lands to individual Indians in parcels between 40 and 160 acres. The Department of Interior was supposed to hold these parcels in trust for a period of 25 years and then turn them over to the individual Indians. The Department of Interior has held these allotments in trust until the present day. During the 123 years since 1887, these lands have become highly fractionated as successive generations of Indian owners bequeathed the land to their children.

Today the Department of the Interior holds about 56 million acres of land in trust for individual Indians. These 56 million acres generate approximately \$357 million annually in coal sales, timber sales, oil and gas leases, and grazing leases. This \$357 million is supposed to be dispersed to the over 230,000 Indians who have an interest in various parcels.

In the Cobell case, the plaintiffs sought a historical accounting of what individuals were owed and the Department of Interior contended that it could not provide such an accounting.

This case has been going on for 14 years, leaving the plaintiffs without resolution of their claims and diverting attention and resources away from other projects in Indian Country. On December 8, 2009, Secretary Salazar and the plaintiffs agreed to a \$3.4 billion settlement. It is a testament to both sides in this litigation that a fair agreement has been reached.

The Claims Resolution Act of 2010 provides the funding needed to implement this settlement. I am proud of the diligence and focus with which Elouise Cobell pursued justice in this case. I am proud that she is a Montanan, proud of the result, and proud of the Congress for doing the right thing.

I am just as proud of the action we took with regard to the Crow Water Rights Settlement Act of 2010. The Crow Tribe has a membership of approximately 12,000 people. About 7,900 reside on the Crow Indian Reservation in Montana. It is the largest of Montana's seven reservations, comprising approximately 2.3 million acres. The current reservation was established by the Treaty of Fort Laramie with the United States dated May 7, 1868. At the time of its establishment, the reservation comprised nearly 5.9 million acres in both Wyoming and Montana. However, over time the reservation was reduced by nearly 3.6 million acres. The last cession of Crow land, in 1904, included what came to be known as the Ceded Strip, 1 million acres on the north side of the reservation.

There are a number of large streams that flow through the Crow Indian Reservation, including the Bighorn River and its tributaries, one of which is the Little Bighorn River. Another significant stream on the western portion of the Crow Indian Reservation is Pryor Creek and its tributaries.

The Crow Tribe Water Rights Settlement Act of 2010 ratifies the Crow-Montana Water Rights Compact, which was adopted by the Montana State Legislature in 1999. It establishes tribal water rights and settles claims against the government. The bill provides for funding that will be used to more fully develop tribal water resources. This water compact was endorsed by the administration—one of the first to receive this level of consensus and support.

I commend the tribe and the administration, particularly Chairman Cedric Black Eagle and the Commissioner of the Bureau of Reclamation, Mike Connor, and their respective teams for their hard work on this. I also want to thank the Senate Indian Affairs Committee, Chairman DORGAN and Ranking Member BARASSO, for their work reaching consensus. Finally, I want to thank my colleague from Montana, Senator JON TESTER, who has worked so hard to push this through the Senate.

This was truly a bi-partisan effort with cooperation here in the Senate from Senator BINGAMAN, Senator KYL, Senator DORGAN, and Senator GRASSLEY, all of whom worked together and compromised so that we could come together today and do the right thing.

With the House passage of this bill, we are settling decades-old injustices and claims against the government. We are bringing our Nation closer together. I am proud to stand here today, having been a part of making this happen, and I look forward to the day that we see President Obama's signature on this bill.

TRIBUTE TO GREYSON BUCKINGHAM

Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Greyson Buckingham for his hard work as an intern in my Washington, DC, office. I recognize his efforts and contributions to my office as well as to the State of Wyoming.

Greyson is a native of Wyoming and graduated from Jackson Hole High School. He currently attends Georgetown University, where he is majoring in history and government and minoring in Spanish and philosophy. Throughout his internship, he has demonstrated a strong work ethic which has made him an invaluable asset to our office. The quality of his work is reflected in his great efforts over the last several months.

I want to thank Greyson for the dedication he has shown while working for me and my staff. It was a pleasure to have him as part of our team. I know he will have continued success with all of his future endeavors. I wish him all my best on his next journey.

TRIBUTE TO IAN LOWE

Mr. BARRASSO. Mr. President, I would like to take the opportunity to

express my appreciation to Ian Lowe for his hard work as an intern in my Washington, DC, office. I recognize his efforts and contributions to my office as well as to the State of Wyoming.

Ian is a native of Wyoming and graduated from Campbell County High School. He graduated from the University of Wyoming, where he majored in international studies and environment. Throughout his internship, he has demonstrated a strong work ethic which has made him an invaluable asset to our office. The quality of his work is reflected in his great efforts over the last several months.

I want to thank Ian for the dedication he has shown while working for me and my staff. It was a pleasure to have him as part of our team. I know he will have continued success with all of his future endeavors. I wish him all my best on his next journey.

TRIBUTE TO ROBERT DALEY

Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Robert Daley for his hard work as an intern in my Washington, DC, office. I recognize his efforts and contributions to my office as well as to the State of Wyoming.

Robert is a native of Pennsylvania and graduated from Governor Mifflin Public High School. He graduated from American University, where he majored in political science. Throughout his internship, he has demonstrated a strong work ethic which has made him an invaluable asset to our office. The quality of his work is reflected in his great efforts over the last several months.

I want to thank Robert for the dedication he has shown while working for me and my staff. It was a pleasure to have him as part of our team. I know he will have continued success with all of his future endeavors. I wish him all my best on his next journey.

TRIBUTE TO MAX WEISS

Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Max Weiss for his hard work as an intern in my Rock Springs office. I recognize his efforts and contributions to my office as well as to the State of Wyoming.

Max is a native of Wyoming and graduated from Rock Springs High School. He attended Leiden University where he received his master's of clinical psychology. Throughout his internship, he has demonstrated a strong work ethic which has made him an invaluable asset to our office. The quality of his work is reflected in his great efforts over the last several months.

I want to thank Max for the dedication he has shown while working for me and my staff. It was a pleasure to have him as part of our team. I know he will have continued success with all of his future endeavors. I wish him all my best on his next journey.

ADDITIONAL STATEMENTS

TRIBUTE TO JOHN P. COLLIER

• Mrs. SHAHEEN. Mr. President, today I congratulate Professor John Collier for being recognized as the 2010 New Hampshire Professor of the Year. This prestigious award recognizes Professor Collier's extraordinary dedication to undergraduate teaching and his positive influence on the lives and careers of his students.

Professor Collier is the Myron Tribus Professor of Engineering at Dartmouth, and has been teaching the introductory engineering course at Dartmouth's Thayer School of Engineering since the 1980s. His course is extremely popular among students because of its emphasis on practical, hands-on skills and problem solving. With Professor Collier's expert guidance, students in his introductory engineering course work in teams to solve real-world engineering problems in creative ways. Many former students of Professor Collier's note that the system of thinking they learned in his classes proved to be not only a cornerstone of their undergraduate educations but also their chosen professions.

Professor Collier is an expert on orthopedic implant design and engineering, and one of the world's foremost researchers on how and why implants fail. Failed implants are sent to his lab by the thousands, and his research is often used by implant manufacturers to improve the quality of their products.

The U.S. Professors of the Year program acknowledges the most exceptional undergraduate instructors in the country—those who stand out in their teaching and are a positive influence on the lives and careers of their students. It is important that we recognize the contributions that dedicated professors like John Collier make in educating young people. I am extremely proud that Professor Collier has been recognized with this distinguished honor.●

TRANSMITTING NOTIFICATION OF THE IMPLEMENTATION OF AN ALTERNATIVE PAY PLAN FOR LOCALITY PAY INCREASES FOR CIVILIAN FEDERAL EMPLOYEES COVERED BY THE GENERAL SCHEDULE AND CERTAIN OTHER PAY SYSTEMS IN JANUARY 2011—PM 68

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Homeland Security and Governmental Affairs:

To the Congress of the United States:

The law authorizes me to implement an alternative pay plan for locality pay increases for civilian Federal employees covered by the General Schedule

and certain other pay systems in January 2011, if I view the adjustments that would otherwise take effect as inappropriate due to “national emergency or serious economic conditions affecting the general welfare.” Our country faces serious economic conditions affecting the general welfare. As the economic recovery continues, the time has come to put our Nation back on a sustainable fiscal course, an effort that requires tough choices and shared sacrifice. Accordingly, I have determined that it is appropriate to exercise my statutory alternative plan authority under 5 U.S.C. 5304a to set alternative January 2011 locality pay rates. This decision will not materially affect our ability to attract and retain a well-qualified Federal workforce.

Under the authority of section 5304a of title 5, United States Code, I have determined that the current locality pay percentages in Schedule 9 of Executive Order 13525 of December 23, 2009, shall not increase from their 2010 levels. Pursuant to the Non-Foreign Area Retirement Equity Assurance Act of 2009 (sections 1911–1919, Public Law 111–84), I am also establishing applicable 2011 locality pay rates for Alaska and Hawaii that are based on 2010 locality pay levels.

The locality pay rates established in 2010, and continued in 2011 under this alternative plan, are shown in the attachment.

BARACK OBAMA.

THE WHITE HOUSE, November 30, 2010.

MESSAGE FROM THE HOUSE

At 11:38 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5877. An act to designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the “Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building”.

H.R. 6392. An act to designate the facility of the United States Postal Service located at 5003 Westfields Boulevard in Centreville, Virginia, as the “Colonel George Juskalian Post Office Building”.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5877. An act to designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the “Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building”; to the Committee on Homeland Security and Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3985. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 30, 2010, she had presented to the President of the United States the following enrolled bill:

S. 3689. An act to clarify, improve, and correct the laws relating to copyrights, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-8200. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska” (RIN0648–XZ54) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8201. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska” (RIN0648–XZ81) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8202. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “List of Fisheries for 2011” (RIN0648–AY69) received in the Office of the President of the Senate on November 17, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8203. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Correction to Cod Landing Limit for Handgear A Vessels in the Common Pool Fishery” (RIN0648–XZ44) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8204. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Revocation and Establishment of Class E Airspace; St. George, UT” ((RIN2120–AA66)(Docket No. FAA–2010–0660)) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8205. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Revocation of Class E Air-

space; Brunswick, ME; and Establishment of Class E Airspace; Wiscasset, ME” ((RIN2120–AA66)(Docket No. FAA–2010–0248)) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8206. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Eurocopter France Model AS350 B, BA, BI, B2, B3, and D, and Model AS355 E, F, F1, F2, and N Helicopters” ((RIN2120–AA64)(Docket No. FAA–2010–0611)) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8207. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class E Airspace; Jeannette, PA” ((RIN2120–AA66)(Docket No. FAA–2010–0052)) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8208. A communication from the Deputy Chief Financial Officer, Department of Homeland Security, transmitting, pursuant to law, a report relative to the transfer of funds from the Oil Spill Liability Trust Fund to the Emergency Fund, which is administered by the United States Coast Guard; to the Committee on Commerce, Science, and Transportation.

EC-8209. A communication from the Administrator, Research and Innovative Technology Administration, Department of Transportation, transmitting, pursuant to law, a report entitled “Transportation Statistics Annual Report 2009”; to the Committee on Commerce, Science, and Transportation.

EC-8210. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department of Transportation’s fiscal year 2010 annual financial report; to the Committee on Commerce, Science, and Transportation.

EC-8211. A communication from the Acting Administrator of the Livestock and Seed Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Sorghum Promotion and Research Program: Procedures for the Conduct of Referenda” (Docket No. AMS–LS–10–0003) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8212. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Pistachios Grown in California, Arizona, and New Mexico; Modification of the Aflatoxin Regulations” (Docket No. AMS–FV–10–0031; FV10–983–1 FIR) received during adjournment of the Senate in the Office of the President of the Senate on November 29, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8213. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Popcorn Promotion, Research, and Consumer Information Order; Reapportionment” (Docket No. AMS–FV–10–0010) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8214. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Domestic Dates Produced or Packed in Riverside County, CA; Increased Assessment Rate" (Docket No. AMS-FV-10-0059; FV10-987-2 FR) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8215. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Dried Prunes Produced in California; Increased Assessment Rate" (Docket No. AMS-FV-10-0007; FV10-993-1 FR) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8216. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Kiwifruit Grown in California; Changes to District Boundaries" (Docket No. AMS-FV-08-0085; FV08-920-3 FR) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8217. A communication from the Secretary, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Extension of Temporary Exemptions for Eligible Credit Default Swaps to Facilitate Operation of Central Counterparties to Clear and Settle Credit Default Swaps" (RIN3235-AK26) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8218. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" ((44 CFR Part 64)(Internal Agency Docket No. FEMA-8157)) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8219. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" ((44 CFR Part 64)(Internal Agency Docket No. FEMA-8159)) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8220. A communication from the Legal Information Assistant, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Community Reinvestment Act" (RIN1550-AC35) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8221. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Financial Crimes Enforcement Network; Confidentiality of Suspicious Activity Reports" (RIN1506-AA99) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8222. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to the

stabilization of Iraq that was declared in Executive Order 13303 of May 22, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-8223. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Section 833 Treatment of Certain Health Organizations" (Notice 2010-79) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Finance.

EC-8224. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—December 2010" (Rev. Rul. 2010-29) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Finance.

EC-8225. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Amendment to Rules Relating to Status as a Grandfathered Health Plan under PPACA" ((RIN1545-BJ91)(TD 9506)) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Finance.

EC-8226. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tier II Issue—Interchange and Merchant Discount Fees—Directive No. 2" (LBandII-4-1110-030) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Finance.

EC-8227. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Build America Bonds and Other State and Local Bonds: Timing of Issuing Bonds" (Notice 2010-81) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Finance.

EC-8228. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Ohio Regulatory Program" (Docket No. OH-253-FOR) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Energy and Natural Resources.

EC-8229. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report prepared by the Department of State on progress toward a negotiated solution of the Cyprus question covering the periods August 1, 2010 through September 30, 2010; to the Committee on Foreign Relations.

EC-8230. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the proposed transfer of major defense equipment (235 various M113 series vehicles) from the Government of Jordan to the government of Pakistan with an original acquisition cost of \$14,000,000; to the Committee on Foreign Relations.

EC-8231. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the proposed transfer of major defense equipment from the Government of Jordan to the government of Pakistan with an original acquisition cost of \$14,000,000; to the Committee on Foreign Relations.

EC-8232. A communication from the Assistant Secretary, Legislative Affairs, Depart-

ment of State, transmitting, pursuant to law, status reports relative to Iraq for the period of June 16, 2010 through August 18, 2010; to the Committee on Foreign Relations.

EC-8233. A communication from the Financial Assistance Program Manager, Office of Acquisition and Property Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Department of the Interior Implementation of OMB Guidance on Drug-Free Workplace Requirements (Financial Assistance)" (RIN1093-AA12) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-8234. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-564 "Randall School Disposition Restatement Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-8235. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-565 "Office of Cable Television Property Acquisition and Special Purpose Revenue Reprogramming Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-8236. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-566 "Automated Traffic Enforcement Fund Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-8237. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-567 "University of the District of Columbia Board of Trustees Quorum and Contracting Reform Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-8238. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-568 "Budget Support Act Clarification and Technical Amendment Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-8239. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-594 "Expanding Access to Juvenile Records Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-8240. A communication from the Deputy Archivist, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Changes to National Archives and Records' Administration Hours of Operations" (RIN3095-AB68) received in the Office of the President of the Senate on November 29, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-8241. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from April 1, 2010 through September 30, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-8242. A communication from the Federal Co-Chair, Appalachian Regional Commission, transmitting, pursuant to law, the Semiannual Report of the Inspector General for the period from April 1, 2010 through September 30, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-8243. A communication from the General Counsel, Government and Accountability Office, transmitting, pursuant to law,

a report relative to the number of federal agencies that did not fully implement a recommendation made by the Office in response to a bid protest during fiscal year 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-8244. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Fiscal Year 2010 Agency Financial Report"; to the Committee on Homeland Security and Governmental Affairs.

EC-8245. A communication from the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO), transmitting, pursuant to law, the USPTO's 2010-2015 Strategic Plan; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1938. A bill to establish a program to reduce injuries and deaths caused by cellphone use and texting while driving (Rept. No. 111—355).

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

H.R. 4387. A bill to designate the Federal building located at 100 North Palafox Street in Pensacola, Florida, as the "Winston E. Arnov Federal Building".

H.R. 5651. A bill to designate the Federal building and United States courthouse located at 515 9th Street in Rapid City, South Dakota, as the "Andrew W. Bogue Federal Building and United States Courthouse".

H.R. 5706. To designate the building occupied by the Government Printing Office located at 31451 East United Avenue in Pueblo, Colorado, as the "Frank Evans Government Printing Office Building".

H.R. 5773. To designate the Federal building located at 6401 Security Boulevard in Baltimore, Maryland, commonly known as the Social Security Administration Operations Building, as the "Robert M. Ball Federal Building".

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 118. A bill to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mrs. BOXER for the Committee on Environment and Public Works.

*Samuel Epstein Angel, of Arkansas, to be a Member of the Mississippi River Commission for a term of nine years.

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs.

*Eugene Louis Dodaro, of Virginia, to be Comptroller General of the United States for a term of fifteen years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. GILLIBRAND (for herself, Mr. CASEY, Mr. SANDERS, Mr. HARKIN, Ms. STABENOW, Mr. SPECTER, Mr. BROWN of Ohio, Mr. CARPER, Mr. LAUTENBERG, and Mr. SCHUMER):

S. 3986. A bill to amend the Department of Agriculture Reorganization Act of 1994 to establish in the Department of Agriculture a Healthy Food Financing Initiative; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THUNE (for himself and Mr. BEGICH):

S. 3987. A bill to amend the Fair Credit Reporting Act with respect to the applicability of identity theft guidelines to creditors; considered and passed.

By Mr. KIRK:

S. 3988. A bill to establish the Grace Commission II to review and make recommendations regarding cost control in the Federal Government, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. WYDEN (for himself, Mr. SESSIONS, Mrs. McCASKILL, and Mr. THUNE):

S. 3989. A bill to amend the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for restitution and other State judicial debts that are past-due; to the Committee on Finance.

By Mr. BROWN of Massachusetts:

S. 3990. A bill to extend emergency unemployment benefits without adding to the Federal budget deficit, and for other purposes; to the Committee on Finance.

By Mr. REID:

S. 3991. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; read the first time.

By Mr. DURBIN:

S. 3992. A bill to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. McCASKILL (for herself and Mr. BOND):

S. Res. 690. A resolution commemorating the 175th anniversary of the birth of Mark Twain; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 691. A resolution to permit the collection of clothing, toys, food, and housewares during the holiday season for charitable purposes in Senate buildings; considered and agreed to.

ADDITIONAL COSPONSORS

S. 332

At the request of Mrs. FEINSTEIN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 332, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 372

At the request of Mr. AKAKA, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 372, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 2736

At the request of Mr. FRANKEN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2736, a bill to reduce the rape kit backlog and for other purposes.

S. 3221

At the request of Mr. KOHL, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 3221, a bill to amend the Farm Security and Rural Investment Act of 2002 to extend the suspension of limitation on the period for which certain borrowers are eligible for guaranteed assistance.

S. 3260

At the request of Mr. HARKIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3260, a bill to enhance and further research into the prevention and treatment of eating disorders, to improve access to treatment of eating disorders, and for other purposes.

S. 3437

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 3437, a bill to amend the Child Abuse Prevention and Treatment Act to establish grant programs for the development and implementation of model undergraduate and graduate curricula on child abuse and neglect at institutions of higher education throughout the United States and to assist States in developing forensic interview training programs, to establish regional training centers and other resources for State and local child protection professionals, and for other purposes.

S. 3572

At the request of Mrs. LINCOLN, the names of the Senator from North Carolina (Mr. BURR), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 3572, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first law enforcement agency, the United States Marshals Service.

S. 3626

At the request of Mr. FRANKEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3626, a bill to encourage the implementation of thermal energy infrastructure, and for other purposes.

S. 3737

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 3737, a bill to amend the Public Health Service Act and title XVIII of the Social Security Act to make the provision of technical services for medical imaging examinations and radiation therapy treatments safer, more accurate, and less costly.

S. 3819

At the request of Mrs. LINCOLN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3819, a bill to amend the Internal Revenue Code of 1986 to reduce the mileage threshold for the deduction for National Guard and Reservists overnight travel expenses.

S. 3981

At the request of Mr. BAUCUS, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 3981, a bill to provide for a temporary extension of unemployment insurance provisions.

S. 3984

At the request of Mr. REED, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3984, a bill to amend and extend the Museum and Library Services Act, and for other purposes.

S. RES. 680

At the request of Mr. KERRY, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. Res. 680, a resolution supporting international tiger conservation efforts and the upcoming Global Tiger Summit in St. Petersburg, Russia.

AMENDMENT NO. 4618

At the request of Mr. NELSON of Florida, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 4618 intended to be proposed to S. 3454, an original bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 4697

At the request of Mr. JOHANNES, his name was added as a cosponsor of amendment No. 4697 intended to be proposed to S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself, Mr. SESSIONS, Mrs. McCASKILL, and Mr. THUNE):

S. 3989. A bill to amend the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for restitution and other State judicial

debts that are past-due; to the Committee on Finance.

Mr. WYDEN. Mr. President, today, along with my colleagues Senators SESSIONS, McCASKILL, and THUNE, I am introducing a bill to help crime victims and state courts recover the restitution and fees that are owed to them. This bipartisan bill would accomplish this worthy goal by intercepting tax refunds of deadbeat debtors who've failed to pay restitution or court fees. If enacted, this bill would essentially allow state courts to cross-reference outstanding debts with the IRS and use existing procedures to withhold tax refunds in order to satisfy past due debts.

This bill would not only deliver justice to crime victims who are owed restitution, but would also provide much-needed resources to help keep court rooms open and court programs operating. At a time when our State and local governments are struggling to find funding for vital programs—including keeping courthouse doors open—unpaid court fees represent an important source of revenue that should be captured. This bill would help close budget gaps and provide additional revenue without raising taxes or imposing any new costs or burdens. In fact, participation in the program would be optional for states, but I expect most states to participate and to benefit greatly from this bill.

This bill would operate the same way as the very successful child support debt collection system. The bill will allow states to share information on outstanding restitution owed and court debts with the IRS, which would then be required to intercept any Federal tax refunds of debtors and send that money to the victim or court owed that debt.

It has been estimated by the National Center for State Courts that outstanding court debts across the country total approximately \$15 billion. In my home State of Oregon alone, the outstanding restitution and court fee debt amount is \$987 million. Only a portion of outstanding debts are owed by individuals who will receive Federal tax refunds, so a portion of court debts would not be collected immediately. Nonetheless, the State of Oregon estimates that passage of this bill would allow the state to collect \$30 million per year.

Without this straight-forward and efficient mechanism, the collection of victim restitution and court debts is a costly and time-consuming process. Enactment of this bill would reduce the fiscal cost and administrative burden that victims and courts bear in attempting to collect those debts. Again, in the midst of a challenging fiscal crisis, it only makes common sense to collect revenues that are already owed—through an efficient and convenient method.

Because this bill would benefit both the court system, and those who rely upon it, the Court Fee Tax Intercept Act is endorsed by a broad array of

court, government, law enforcement, and crime victims organizations. The bill is supported by the National Center for Victims of Crime, the National District Attorneys Association, the American Probation and Parole Association, the Conference of Chief Justices, the Conference of State Court Administrators, the National Association for Court Managers, the National Conference of State Legislatures, the National Association of Counties, and the Government Finance Officers Association.

I urge all colleagues to support this bipartisan legislation.

By Mr. REID:

S. 3991. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Employer-Employee Cooperation Act of 2010".

SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies, it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) State and local public safety officers play an essential role in the efforts of the United States to detect, prevent, and respond to terrorist attacks, and to respond to natural disasters, hazardous materials, and other mass casualty incidents. State and local public safety officers, as first responders, are a component of our Nation's National Incident Management System, developed by the Department of Homeland Security to coordinate response to and recovery from terrorism, major natural disasters, and other major emergencies. Public safety employer-employee cooperation is essential in meeting these needs and is, therefore, in the National interest.

(3) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(4) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

(5) Many States and localities already provide public safety officers with collective bargaining rights comparable to or greater than the rights and responsibilities set forth in this Act, and such State and local laws should be respected.

SEC. 3. DEFINITIONS.

In this Act:

(1) **AUTHORITY.**—The term “Authority” means the Federal Labor Relations Authority.

(2) **CONFIDENTIAL EMPLOYEE.**—The term “confidential employee” has the meaning given such term under applicable State law on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) is designated as confidential; and

(B) is an individual who routinely assists, in a confidential capacity, supervisory employees and management employees.

(3) **EMERGENCY MEDICAL SERVICES PERSONNEL.**—The term “emergency medical services personnel” means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(4) **EMPLOYER; PUBLIC SAFETY AGENCY.**—The terms “employer” and “public safety agency” mean any State, or political subdivision of a State, that employs public safety officers.

(5) **FIREFIGHTER.**—The term “firefighter” has the meaning given the term “employee engaged in fire protection activities” in section 3(y) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(y)).

(6) **LABOR ORGANIZATION.**—The term “labor organization” means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment, and related matters.

(7) **LAW ENFORCEMENT OFFICER.**—The term “law enforcement officer” has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

(8) **MANAGEMENT EMPLOYEE.**—The term “management employee” has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(9) **PERSON.**—The term “person” means an individual or a labor organization.

(10) **PUBLIC SAFETY OFFICER.**—The term “public safety officer”—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory, management, or confidential employee.

(11) **STATE.**—The term “State” means each of the several States of the United States, the District of Columbia, and any territory or possession of the United States.

(12) **SUBSTANTIALLY PROVIDES.**—The term “substantially provides”, when used with respect to the rights and responsibilities described in section 4(b), means compliance with each right and responsibility described in such section.

(13) **SUPERVISORY EMPLOYEE.**—The term “supervisory employee” has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work to exercising such authority.

SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) **DETERMINATION.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b).

(2) **CONSIDERATION OF ADDITIONAL OPINIONS.**—In making the determination described in paragraph (1), the Authority shall consider the opinions of affected employers and labor organizations. In the case where the Authority is notified by an affected employer and labor organization that both parties agree that the law applicable to such employer and labor organization substantially provides for the rights and responsibilities described in subsection (b), the Authority shall give such agreement weight to the maximum extent practicable in making the Authority’s determination under this subsection.

(3) **LIMITED CRITERIA.**—In making the determination described in paragraph (1), the Authority shall be limited to the application of the criteria described in subsection (b) and shall not require any additional criteria.

(4) **SUBSEQUENT DETERMINATIONS.**—

(A) **IN GENERAL.**—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) **PROCEDURES FOR SUBSEQUENT DETERMINATIONS.**—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Authority shall issue a subsequent determination not later than 30 days after receipt of such request.

(5) **JUDICIAL REVIEW.**—Any person or employer aggrieved by a determination of the Authority under this section may, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person or employer resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in sub-

sections (c) and (d) of section 7123 of title 5, United States Code, shall be followed.

(b) **RIGHTS AND RESPONSIBILITIES.**—In making a determination described in subsection (a), the Authority shall consider a State’s law to substantially provide the required rights and responsibilities unless such law fails to provide rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management employees, supervisory employees, and confidential employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees’ labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Providing for the right to bargain over hours, wages, and terms and conditions of employment.

(4) Making available an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration, or comparable procedures.

(5) Requiring enforcement of all rights, responsibilities, and protections provided by State law and enumerated in this section, and of any written contract or memorandum of understanding between a labor organization and a public safety employer, through—

(A) a State administrative agency, if the State so chooses; and

(B) at the election of an aggrieved party, the State courts.

(c) **COMPLIANCE WITH REQUIREMENTS.**—If the Authority determines, acting pursuant to its authority under subsection (a), that a State substantially provides rights and responsibilities described in subsection (b), then this Act shall not preempt State law.

(d) **FAILURE TO MEET REQUIREMENTS.**—

(1) **IN GENERAL.**—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), then such State shall be subject to the regulations and procedures described in section 5 beginning on the later of—

(A) the date that is 2 years after the date of enactment of this Act;

(B) the date that is the last day of the first regular session of the legislature of the State that begins after the date of the enactment of this Act; or

(C) in the case of a State receiving a subsequent determination under subsection (a)(4), the date that is the last day of the first regular session of the legislature of the State that begins after the date the Authority made the determination.

(2) **PARTIAL FAILURE.**—If the Authority makes a determination that a State does not substantially provide for the rights and responsibilities described in subsection (b) solely because the State law substantially provides for such rights and responsibilities for certain categories of public safety officers covered by the Act but not others, the Authority shall identify those categories of public safety officers that shall be subject to the regulations and procedures described in section 5, pursuant to section 8(b)(3) and beginning on the appropriate date described in paragraph (1), and those categories of public safety officers that shall remain subject to State law.

SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the

Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for employers and public safety officers in States which the Authority has determined, acting pursuant to section 4(a), do not substantially provide for such rights and responsibilities.

(b) **ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.**—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a voting majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) **ENFORCEMENT.**—

(1) **AUTHORITY TO PETITION COURT.**—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code.

(2) **PRIVATE RIGHT OF ACTION.**—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in any appropriate district court of the United States to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

(a) **IN GENERAL.**—Subject to subsection (b), an employer, public safety officer, or labor organization may not engage in a lockout, sickout, work slowdown, strike, or any other organized job action that will measurably disrupt the delivery of emergency services and is designed to compel an employer, public safety officer, or labor organization to agree to the terms of a proposed contract.

(b) **NO PREEMPTION.**—Nothing in this section shall be construed to preempt any law of any State or political subdivision of any State with respect to strikes by public safety officers.

SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memo-

randum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) and is in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) **CONSTRUCTION.**—Nothing in this Act shall be construed—

(1) to preempt or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State that provides greater or comparable rights and responsibilities than the rights and responsibilities described in section 4(b);

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to preempt or limit any State law in effect on the date of enactment of this Act that provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on the employee's own behalf with respect to the employee's employment relations with the public safety agency involved;

(4) to preempt or limit any State law in effect on the date of enactment of this Act that provides for the rights and responsibilities described in section 4(b) solely because such State law excludes from its coverage employees of a State militia or national guard;

(5) to permit parties in States subject to the regulations and procedures described in section 5 to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours;

(6) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full-time employees;

(7) to prohibit a State from exempting from coverage under this Act individuals employed by the office of the sheriff in States that do not provide the rights and responsibilities described in section 4(b) for law enforcement officers prior to the date of enactment of this Act; or

(8) to preempt or limit the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b) solely because such law or ordinance does not require bargaining with respect to pension, retirement, or health benefits.

For purposes of paragraph (6), the term “employee” includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) **COMPLIANCE.**—

(1) **ACTIONS OF STATES.**—Nothing in this Act or the regulations promulgated under this Act shall be construed to require a State to rescind or preempt the laws or ordinances of any of the State's political subdivisions if such laws provide rights and responsibilities for public safety officers that are comparable to or greater than the rights and responsibilities described in section 4(b).

(2) **ACTIONS OF THE AUTHORITY.**—Nothing in this Act or the regulations promulgated under this Act shall be construed to preempt—

(A) the laws or ordinances of any State or political subdivision of a State, if such laws provide collective bargaining rights for public safety officers that are comparable to or greater than the rights enumerated in section 4(b);

(B) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b) with respect to certain categories of public safety officers covered by this Act solely because such rights and responsibilities have not been extended to other categories of public safety officers covered by this Act; or

(C) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b), solely because such laws or ordinances provide that a contract or memorandum of understanding between a public safety employer and a labor organization must be presented to a legislative body as part of the process for approving such contract or memorandum of understanding.

(3) **LIMITED ENFORCEMENT POWER.**—In the case of a law described in paragraph (2)(B), the Authority shall only exercise the powers provided in section 5 with respect to those categories of public safety officers who have not been afforded the rights and responsibilities described in section 4(b).

(4) **EXCLUSIVE ENFORCEMENT PROVISION.**—Notwithstanding any other provision of the Act, and in the absence of a waiver of a State's sovereign immunity, the Authority shall have the exclusive power to enforce the provisions of this Act with respect to employees of a State.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DURBIN:

S. 3992. A bill to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children and for other purposes; read the first time.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Development, Relief, and Education for Alien Minors Act of 2010” or the “DREAM Act of 2010”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Cancellation of removal of certain long-term residents who entered the United States as children.
- Sec. 5. Conditional nonimmigrant status.
- Sec. 6. Adjustment of status.
- Sec. 7. Retroactive benefits.
- Sec. 8. Exclusive jurisdiction.
- Sec. 9. Penalties for false statements.
- Sec. 10. Confidentiality of information.
- Sec. 11. Higher education assistance.
- Sec. 12. Treatment of aliens with adjusted status for certain purposes.
- Sec. 13. Military enlistment.
- Sec. 14. GAO report.

SEC. 3. DEFINITIONS.

In this Act:

(1) **IN GENERAL.**—Except as otherwise specifically provided, a term used in this Act

that is used in the immigration laws shall have the meaning given such term in the immigration laws.

(2) **ARMED FORCES.**—The term “Armed Forces” has the meaning given the term “armed forces” in section 101(a) of title 10, United States Code.

(3) **CONDITIONAL NONIMMIGRANT.**—

(A) **DEFINITION.**—The term “conditional nonimmigrant” means an alien who is granted conditional nonimmigrant status under this Act.

(B) **DESCRIPTION.**—A conditional nonimmigrant—

(i) shall be considered to be an alien within a nonimmigrant class for purposes of the immigration laws;

(ii) may have the intention permanently to reside in the United States; and

(iii) is not required to have a foreign residence which the alien has no intention of abandoning.

(4) **IMMIGRATION LAWS.**—The term “immigration laws” has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(5) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), except that the term does not include an institution of higher education outside the United States.

SEC. 4. CANCELLATION OF REMOVAL OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) **SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law and except as otherwise provided in this Act, the Secretary of Homeland Security may cancel removal of an alien who is inadmissible or deportable from the United States, and grant the alien conditional nonimmigrant status, if the alien demonstrates by a preponderance of the evidence that—

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of the enactment of this Act and was younger than 16 years of age on the date the alien initially entered the United States;

(B) the alien has been a person of good moral character since the date the alien initially entered the United States;

(C) the alien—

(i) is not inadmissible under paragraph (1), (2), (3), (4), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (4), (5), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

(iii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(iv) has not been convicted of—

(I) any offense under Federal or State law punishable by a maximum term of imprisonment of more than 1 year; or

(II) 3 or more offenses under Federal or State law, for which the alien was convicted on different dates for each of the 3 offenses and sentenced to imprisonment for an aggregate of 90 days or more;

(D) the alien—

(i) has been admitted to an institution of higher education in the United States; or

(ii) has earned a high school diploma or obtained a general education development certificate in the United States;

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien—

(i) has remained in the United States under color of law after such order was issued; or

(ii) received the order before attaining the age of 16 years; and

(F) the alien was younger than 30 years of age on the date of the enactment of this Act.

(2) **WAIVER.**—Notwithstanding paragraph (1), the Secretary of Homeland Security may waive the ground of ineligibility under paragraph (1), (4), or (6) of section 212(a) of the Immigration and Nationality Act and the ground of deportability under paragraph (1) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) **PROCEDURES.**—The Secretary of Homeland Security shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(4) **DEADLINE FOR SUBMISSION OF APPLICATION.**—An alien shall submit an application for cancellation of removal and conditional nonimmigrant status under this subsection no later than the date that is 1 year after the later of—

(A) the date the alien was admitted to an institution of higher education in the United States;

(B) the date the alien earned a high school diploma or obtained a general education development certificate in the United States; or

(C) the date of the enactment of this Act.

(5) **SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.**—The Secretary of Homeland Security may not cancel the removal of an alien or grant conditional nonimmigrant status to the alien under this subsection unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for applicants who are unable to provide such biometric or biographic data because of a physical impairment.

(6) **BACKGROUND CHECKS.**—

(A) **REQUIREMENT FOR BACKGROUND CHECKS.**—The Secretary of Homeland Security shall utilize biometric, biographic, and other data that the Secretary determines is appropriate—

(i) to conduct security and law enforcement background checks of an alien seeking relief available under this subsection; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such relief.

(B) **COMPLETION OF BACKGROUND CHECKS.**—The security and law enforcement background checks required by subparagraph (A)(i) shall be completed, to the satisfaction of the Secretary, prior to the date the Secretary cancels the removal of the alien under this subsection.

(7) **MEDICAL EXAMINATION.**—An alien applying for relief available under this subsection shall undergo a medical observation and examination. The Secretary of Homeland Security, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature, frequency, and timing of such observation and examination.

(8) **MILITARY SELECTIVE SERVICE.**—An alien applying for relief available under this subsection shall establish that the alien has registered under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), if the alien is subject to such registration under that Act.

(b) **TERMINATION OF CONTINUOUS PERIOD.**—For purposes of this section, any period of continuous residence or continuous physical

presence in the United States of an alien who applies for cancellation of removal under subsection (a) shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) **TREATMENT OF CERTAIN BREAKS IN PRESENCE.**—

(1) **IN GENERAL.**—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) **EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.**—The Secretary of Homeland Security may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) **EXEMPTION FROM NUMERICAL LIMITATIONS.**—Nothing in this section may be construed to apply a numerical limitation to the number of aliens who may be eligible for cancellation of removal under subsection (a).

(e) **REGULATIONS.**—

(1) **INITIAL PUBLICATION.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall publish regulations implementing this section.

(2) **INTERIM REGULATIONS.**—Notwithstanding section 553 of title 5, United States Code, the regulations required by paragraph (1) shall be effective, on an interim basis, immediately upon publication but may be subject to change and revision after public notice and opportunity for a period of public comment.

(3) **FINAL REGULATIONS.**—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary of Homeland Security shall publish final regulations implementing this section.

(f) **REMOVAL OF ALIEN.**—The Secretary of Homeland Security may not remove any alien who—

(1) has a pending application for conditional nonimmigrant status under this Act; and

(2) establishes prima facie eligibility for cancellation of removal and conditional nonimmigrant status under subsection (a).

SEC. 5. CONDITIONAL NONIMMIGRANT STATUS.

(a) **LENGTH OF STATUS.**—Conditional nonimmigrant status granted under section 4 shall be valid for a period of 10 years, subject to termination under subsection (c) of this section.

(b) **TERMS OF CONDITIONAL NONIMMIGRANT STATUS.**—

(1) **EMPLOYMENT.**—A conditional nonimmigrant shall be authorized to be employed in the United States incident to conditional nonimmigrant status.

(2) **TRAVEL.**—A conditional nonimmigrant may travel outside the United States and may be admitted (if otherwise admissible) upon return to the United States without having to obtain a visa if—

(A) the alien is the bearer of valid, unexpired documentary evidence of conditional nonimmigrant status; and

(B) the alien's absence from the United States was not for a period exceeding 180 days.

(c) **TERMINATION OF STATUS.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security shall terminate the conditional nonimmigrant status of any alien if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (B) or (C) of section 4(a)(1);

(B) has become a public charge; or

(C) has received a dishonorable or other than honorable discharge from the Armed Forces.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS.—Any alien whose conditional nonimmigrant status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional nonimmigrant status.

SEC. 6. ADJUSTMENT OF STATUS.

(a) IN GENERAL.—A conditional nonimmigrant may file with the Secretary of Homeland Security, in accordance with subsection (c), an application to have the alien's status adjusted to that of an alien lawfully admitted for permanent residence. The application shall provide, under penalty of perjury, the facts and information so that the Secretary may make the determination described in paragraph (b)(1).

(b) ADJUDICATION OF APPLICATION FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—If an application is filed in accordance with subsection (a) for an alien, the Secretary of Homeland Security shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (E) of subsection (d)(1).

(2) ADJUSTMENT OF STATUS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and adjust the alien's status to that of an alien lawfully admitted for permanent residence, effective as of the date of approval of the application.

(3) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional nonimmigrant status of the alien as of the date of the determination.

(c) TIME TO FILE APPLICATION.—An alien shall file an application for adjustment of status during the period beginning 1 year before and ending on either the date that is 10 years after the date of the granting of conditional nonimmigrant status or any other expiration date of the conditional nonimmigrant status as extended by the Secretary of Homeland Security in accordance with this Act. The alien shall be deemed to be in conditional nonimmigrant status in the United States during the period in which such application is pending.

(d) DETAILS OF APPLICATION.—

(1) CONTENTS OF APPLICATION.—Each application for an alien under subsection (a) shall contain information to permit the Secretary of Homeland Security to determine whether each of the following requirements is met:

(A) The alien has demonstrated good moral character during the entire period the alien has been a conditional nonimmigrant.

(B) The alien is in compliance with section 4(a)(1)(C).

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional nonimmigrant status, unless the alien demonstrates that the alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the Armed Forces has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States.

(ii) The alien has served in the Armed Forces for at least 2 years and, if discharged, has received an honorable discharge.

(E) The alien has provided a list of each secondary school (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that the alien attended in the United States.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's discretion, adjust the status of an alien if the alien—

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION.—Upon a showing of good cause, the Secretary of Homeland Security may extend the period of conditional nonimmigrant status for the purpose of completing the requirements described in paragraph (1)(D).

(e) CITIZENSHIP REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the status of a conditional nonimmigrant shall not be adjusted to permanent resident status unless the alien demonstrates that the alien satisfies the requirements of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 312(a)).

(2) EXCEPTION.—Paragraph (1) shall not apply to an alien who is unable because of a physical or developmental disability or mental impairment to meet the requirements of such paragraph.

(f) PAYMENT OF FEDERAL TAXES.—

(1) IN GENERAL.—Not later than the date on which an application is filed under subsection (a) for adjustment of status, the alien shall satisfy any applicable Federal tax liability due and owing on such date.

(2) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of paragraph (1), the term "applicable Federal tax liability" means liability for Federal taxes imposed under the Internal Revenue Code of 1986, including any penalties and interest thereon.

(g) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary of Homeland Security may not adjust the status of an alien under this section unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for applicants who are unable to provide such biometric or biographic data because of a physical impairment.

(h) BACKGROUND CHECKS.—

(1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary of Homeland Security shall utilize biometric, biographic, and other data that the Secretary determines appropriate—

(A) to conduct security and law enforcement background checks of an alien applying for adjustment of status under this section; and

(B) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such adjustment of status.

(2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement back-

ground checks required by paragraph (1)(A) shall be completed, to the satisfaction of the Secretary, prior to the date the Secretary grants adjustment of status.

(i) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of aliens who may be eligible for adjustment of status under this section.

(j) CONDITIONAL NONIMMIGRANTS OTHERWISE ELIGIBLE FOR ADJUSTMENT.—Nothing in this section may be construed to limit the eligibility of a conditional nonimmigrant for adjustment of status, issuance of an immigrant visa, or admission as a lawful permanent resident alien at any time, if the conditional nonimmigrant is otherwise eligible for such benefit under the immigration laws.

(k) ELIGIBILITY FOR NATURALIZATION.—An alien whose status is adjusted under this section to that of an alien lawfully admitted for permanent residence may be naturalized upon compliance with all the requirements of the immigration laws except the provisions of paragraph (1) of section 316(a) of the Immigration and Nationality Act (8 U.S.C. 1427(a)), if such person immediately preceding the date of filing the application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least 3 years, and has been physically present in the United States for periods totaling at least half of that time and has resided within the State or the district of U.S. Citizenship and Immigration Services in the United States in which the applicant filed the application for at least 3 months. An alien described in this subsection may file the application for naturalization as provided in the second sentence of subsection (a) of section 344 of the Immigration and Nationality Act (8 U.S.C. 1445).

SEC. 7. RETROACTIVE BENEFITS.

If, on the date of the enactment of this Act, an alien has satisfied all the requirements of section 4(a)(1) and section 6(d)(1)(D), the Secretary of Homeland Security may cancel removal and grant conditional nonimmigrant status in accordance with section 4. The alien may apply for adjustment of status in accordance with section 6(a) if the alien has met the requirements of subparagraphs (A), (B), and (C) of section 6(d)(1) during the entire period of conditional nonimmigrant status.

SEC. 8. EXCLUSIVE JURISDICTION.

(a) IN GENERAL.—The Secretary of Homeland Security shall have exclusive jurisdiction to determine eligibility for relief under this Act, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for cancellation of removal and conditional nonimmigrant status or adjustment of status under this Act, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this Act.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY SCHOOL.—The Attorney General shall stay the removal proceedings of any alien who—

(1) meets all the requirements of subparagraphs (A), (B), (C), and (E) of section 4(a)(1);

(2) is at least 12 years of age; and

(3) is enrolled full time in a primary or secondary school.

(c) EMPLOYMENT.—An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States

consistent with the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and State and local laws governing minimum age for employment.

(d) **LIFT OF STAY.**—The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien—

(1) is no longer enrolled in a primary or secondary school; or

(2) ceases to meet the requirements of subsection (b)(1).

SEC. 9. PENALTIES FOR FALSE STATEMENTS.

Whoever files an application for any benefit under this Act and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

SEC. 10. CONFIDENTIALITY OF INFORMATION.

(a) **PROHIBITION.**—Except as provided in subsection (b), no officer or employee of the United States may—

(1) use the information furnished by an individual pursuant to an application filed under this Act to initiate removal proceedings against any person identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this Act can be identified; or

(3) permit anyone other than an officer or employee of the United States Government or, in the case of an application filed under this Act with a designated entity, that designated entity, to examine such application filed under this Act.

(b) **REQUIRED DISCLOSURE.**—The Attorney General or the Secretary of Homeland Security shall provide the information furnished under this Act, and any other information derived from such furnished information, to—

(1) a Federal, State, tribal, or local law enforcement agency, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution, a background check conducted pursuant to the Brady Handgun Violence Protection Act (Public Law 103-159; 107 Stat. 1536) or an amendment made by that Act, or for homeland security or national security purposes, if such information is requested by such entity or consistent with an information sharing agreement or mechanism; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(c) **FRAUD IN APPLICATION PROCESS OR CRIMINAL CONDUCT.**—Notwithstanding any other provision of this section, information concerning whether an alien seeking relief under this Act has engaged in fraud in an application for such relief or at any time committed a crime may be used or released for immigration enforcement, law enforcement, or national security purposes.

(d) **PENALTY.**—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than \$10,000.

SEC. 11. HIGHER EDUCATION ASSISTANCE.

Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who is granted conditional nonimmigrant status or lawful permanent resident status under this Act shall be eligible only for the following assistance under such title:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 12. TREATMENT OF ALIENS WITH ADJUSTED STATUS FOR CERTAIN PURPOSES.

(a) **IN GENERAL.**—An individual granted conditional nonimmigrant status under this Act shall, while such individual remains in such status, be considered lawfully present for all purposes except—

(1) section 36B of the Internal Revenue Code of 1986 (concerning premium tax credits), as added by section 1401 of the Patient Protection and Affordable Care Act (Public Law 111-148); and

(2) section 1402 of the Patient Protection and Affordable Care Act (concerning reduced cost sharing; 42 U.S.C. 18071).

(b) **FOR PURPOSES OF THE 5-YEAR ELIGIBILITY WAITING PERIOD UNDER PRWORA.**—An individual who has met the requirements under this Act for adjustment from conditional nonimmigrant status to lawful permanent resident status shall be considered, as of the date of such adjustment, to have completed the 5-year period specified in section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613).

SEC. 13. MILITARY ENLISTMENT.

Section 504(b)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

“(D) An alien who is a conditional nonimmigrant (as that term is defined in section 3 of the DREAM Act of 2010).”.

SEC. 14. GAO REPORT.

Not later than 7 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report setting forth—

(1) the number of aliens who were eligible for cancellation of removal and grant of conditional nonimmigrant status under section 4(a);

(2) the number of aliens who applied for cancellation of removal and grant of conditional nonimmigrant status under section 4(a);

(3) the number of aliens who were granted conditional nonimmigrant status under section 4(a); and

(4) the number of aliens whose status was adjusted to that of an alien lawfully admitted for permanent residence under section 6.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 690—COMMEMORATING THE 175TH ANNIVERSARY OF THE BIRTH OF MARK TWAIN

Mrs. MCCASKILL (for herself and Mr. BOND) submitted the following resolution; which was considered and agreed to:

S. RES. 690

Whereas Mark Twain was born with the name Samuel Langhorne Clemens on November 30, 1835, in Florida, Missouri, the 6th child of John Marshall and Jane Lampton Clemens;

Whereas in 1839, the Clemens family moved to Hannibal, Missouri, the inspiration for the

fictional town of St. Petersburg depicted in the novels “The Adventures of Tom Sawyer” and “Adventures of Huckleberry Finn”, where the Clemens family lived until 1853, including several years of residence at 206 Hill Street, known as the boyhood home of Mark Twain;

Whereas in 1848, Samuel Clemens left school to become a printer’s apprentice at the Missouri Courier newspaper, his first in a series of occupations that include, most notably, author, but also, printer, typesetter, steamboat pilot, journalist, lecturer, publisher, editor, prospector, and political activist;

Whereas while working at the Virginia City newspaper, the Territorial Enterprise, Clemens first used the pen name “Mark Twain” in 1863;

Whereas with the publication of the short story “Jim Smiley and His Jumping Frog” in The Saturday Press in 1865, Mark Twain experienced his first significant success as an author;

Whereas in 1869, Twain’s first book, “The Innocents Abroad”, was published, detailing Twain’s adventures through Europe and the Middle East;

Whereas Samuel Clemens, known for the love and affection he demonstrated for his wife and family and to whom the quote, “What is a home without a child?”, is attributed, in 1870 married Olivia Langdon, with whom he had 4 children, Langdon, Olivia Susan, Clara Langdon, and Jane Lampton;

Whereas the book “Roughing It”, part autobiography and part tall tale, chronicling Twain’s adventures in the early American West and critiquing society’s treatment of Chinese Americans, was published in 1872;

Whereas “The Gilded Age: A Tale of Today”, a novel Twain wrote in collaboration with Charles Dudley Warner satirizing political corruption and greed in American life, was published in 1873;

Whereas Twain’s novel, “The Adventures of Tom Sawyer”, through which he sought “to pleasantly remind adults of what they once were themselves, and of how they felt and thought and talked, and what queer enterprises they sometimes engaged in”, was published in 1876;

Whereas in 1881, Twain addressed class issues and attacked injustice and hypocrisy in English society with the publication of his novel, “The Prince and the Pauper”;

Whereas in 1883, “Life on the Mississippi”, Twain’s book exploring the history and lore of the Mississippi River and detailing his time spent as a Mississippi River steamboat pilot, was published;

Whereas Mark Twain’s most famous work, “Adventures of Huckleberry Finn”, which attacked the institution of slavery, the failures of Reconstruction, and the continued mistreatment of African Americans in American society, and which is considered a masterpiece of American fiction and is widely known as one of the Great American Novels, was published in 1884;

Whereas Twain’s powerful social critique, “A Connecticut Yankee in King Arthur’s Court”, was published in 1889;

Whereas “The Tragedy of Pudd’nhead Wilson”, Twain’s strongest critique of racism and the institution of slavery, was published in 1894;

Whereas on April 21, 1910, Samuel Clemens died at the age of 74; and

Whereas the 175th anniversary of the birth of Mark Twain is an historic occasion: Now, therefore, be it

Resolved, That the Senate commemorates the 175th anniversary of the birth of Mark Twain on November 30, 2010, and his enduring legacy as one of our Nation’s greatest authors and humorists.

SENATE RESOLUTION 691—TO PERMIT THE COLLECTION OF CLOTHING, TOYS, FOOD, AND HOUSEWARES DURING THE HOLIDAY SEASON FOR CHARITABLE PURPOSES IN SENATE BUILDINGS

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 691

Resolved,

SECTION 1. COLLECTION OF CLOTHING, TOYS, FOOD, AND HOUSEWARES DURING THE HOLIDAY SEASON FOR CHARITABLE PURPOSES IN SENATE BUILDINGS.

(a) IN GENERAL.—Notwithstanding any other provision of the rules or regulations of the Senate—

(1) a Senator, officer, or employee of the Senate may collect from another Senator, officer, or employee of the Senate within Senate buildings nonmonetary donations of clothing, toys, food, and housewares for charitable purposes related to serving those in need or members of the Armed Services and their families during the holiday season, if the charitable purposes do not otherwise violate any rule or regulation of the Senate or of Federal law; and

(2) a Senator, officer, or employee of the Senate may work with a nonprofit organization with respect to the delivery of donations described in paragraph (1).

(b) EXPIRATION.—The authority provided by this resolution shall expire at the end of the 2nd session of the 111th Congress.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4721. Mrs. HAGAN (for Mr. ROCKEFELLER (for himself and Mrs. HUTCHISON)) proposed an amendment to the bill S. 3386, to protect consumers from certain aggressive sales tactics on the Internet.

TEXT OF AMENDMENTS

SA 4721. Mrs. HAGAN (for Mr. ROCKEFELLER (for himself and Mrs. HUTCHISON)) proposed an amendment to the bill S. 3386, to protect consumers from certain aggressive sales tactics on the Internet; as follows:

On page 15, line 17, strike “purchaser’s” and insert “consumer’s”.

On page 15, line 19, strike “purchaser” and insert “consumer”.

On page 17, beginning with line 4, strike through line 15 on page 18.

On page 18, line 16, strike “(d)” and insert “(c)”.

On page 18, line 21, strike “(e)” and insert “(d)”.

On page 19, strike lines 3 through 7.

On page 19, line 8, strike “(3)” and insert “(2)”.

On page 19, strike lines 17 and 18 and insert the following:

(C) is not—

(i) the initial merchant;

(ii) a subsidiary or corporate affiliate of the initial merchant; or

(iii) a successor of an entity described in clause (i) or (ii).

On page 19, between line 18 and 19, insert the following:

SEC. 4. NEGATIVE OPTION MARKETING ON THE INTERNET.

It shall be unlawful for any person to charge or attempt to charge any consumer

for any goods or services sold in a transaction effected on the Internet through a negative option feature (as defined in the Federal Trade Commission’s Telemarketing Sales Rule in part 310 of title 16, Code of Federal Regulations), unless the person—

(1) provides text that clearly and conspicuously discloses all material terms of the transaction before obtaining the consumer’s billing information;

(2) obtains a consumer’s express informed consent before charging the consumer’s credit card, debit card, bank account, or other financial account for products or services through such transaction; and

(3) provides simple mechanisms for a consumer to stop recurring charges from being placed on the consumer’s credit card, debit card, bank account, or other financial account.

On page 19, line 19, strike “SEC. 4.” and insert “SEC. 5.”.

On page 20, strike lines 5 through 8.

On page 20, line 9, strike “(c)” and insert “(b)”.

On page 20, line 16, strike “(d)” and insert “(c)”.

On page 20, line 19, strike “SEC. 5.” and insert “SEC. 6.”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on November 30, 2010, at 3:30 p.m. in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on November 30, 2010.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 30, 2010.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CRIME AND DRUGS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Crime and Drugs, be authorized to meet during the session of the Senate, on November 30, 2010, at 10 a.m. in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “Examining Enforcement of the Foreign Corrupt Practices Act.”

The PRESIDING OFFICER. Without objection, it is so ordered.

RESTORE ONLINE SHOPPERS’ CONFIDENCE ACT

Mrs. HAGAN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 500, S. 3386.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3386) to protect consumers from certain aggressive sales tactics on the Internet.

There being no objection, the Senate proceeded to consider the bill (S. 3386) to protect consumers from certain aggressive sales tactics on the Internet, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Restore Online Shoppers’ Confidence Act”.

SEC. 2. FINDINGS; DECLARATION OF POLICY.

The Congress finds the following:

(1) The Internet has become an important channel of commerce in the United States, accounting for billions of dollars in retail sales every year. Over half of all American adults have now either made an online purchase or an online travel reservation.

(2) Consumer confidence is essential to the growth of online commerce. To continue its development as a marketplace, the Internet must provide consumers with clear, accurate information and give sellers an opportunity to fairly compete with one another for consumers’ business.

(3) An investigation by the Senate Committee on Commerce, Science, and Transportation found abundant evidence that the aggressive sales tactics many companies use against their online customers have undermined consumer confidence in the Internet and thereby harmed the American economy.

(4) The Committee showed that, in exchange for “bounties” and other payments, hundreds of reputable online retailers and websites shared their customers’ billing information, including credit card and debit card numbers, with third party sellers through a process known as “data pass”. These third party sellers in turn used aggressive, misleading sales tactics to charge millions of American consumers for membership clubs the consumers did not want.

(5) Third party sellers offered membership clubs to consumers as they were in the process of completing their initial transactions on hundreds of websites. These third party “post-transaction” offers were designed to make consumers think the offers were part of the initial purchase, rather than a new transaction with a new seller.

(6) Third party sellers charged millions of consumers for membership clubs without ever obtaining consumers’ billing information, including their credit or debit card information, directly from the consumers. Because third party sellers acquired consumers’ billing information from the initial merchant through “data pass”, millions of consumers were unaware they had been enrolled in membership clubs.

(7) The use of a “data pass” process defied consumers’ expectations that they could only be charged for a good or a service if they submitted their billing information, including their complete credit or debit card numbers.

(8) Third party sellers used a free trial period to enroll members, after which they periodically charged consumers until consumers affirmatively canceled the memberships. This use of “free-to-pay conversion” and “negative option”

sales took advantage of consumers' expectations that they would have an opportunity to accept or reject the membership club offer at the end of the trial period.

SEC. 3. PROHIBITIONS AGAINST CERTAIN UNFAIR AND DECEPTIVE INTERNET SALES PRACTICES.

(a) **REQUIREMENTS FOR CERTAIN INTERNET-BASED SALES.**—It shall be unlawful for any post-transaction third party seller to charge or attempt to charge any consumer's credit card, debit card, bank account, or other financial account for any good or service sold in a transaction effected on the Internet, unless—

(1) before obtaining the purchaser's billing information, the post-transaction third party seller has clearly and conspicuously disclosed to the purchaser all material terms of the transaction, including—

(A) a description of the goods or services being offered;

(B) the fact that the post-transaction third party seller is not affiliated with the initial merchant, which may include disclosure of the name of the post-transaction third party in a manner that clearly differentiates the post-transaction third party seller from the initial merchant; and

(C) the cost of such goods or services; and
(2) the post-transaction third party seller has received the express informed consent for the charge from the consumer whose credit card, debit card, bank account, or other financial account will be charged by—

(A) obtaining from the consumer—

(i) the full account number of the account to be charged; and

(ii) the consumer's name and address and a means to contact the consumer; and

(B) requiring the consumer to perform an additional affirmative action, such as clicking on a confirmation button or checking a box that indicates the consumer's consent to be charged the amount disclosed.

(b) **PROHIBITION ON DATA-PASS USED TO FACILITATE CERTAIN DECEPTIVE INTERNET SALES TRANSACTIONS.**—It shall be unlawful for an initial merchant to disclose a credit card, debit card, bank account, or other financial account number, or to disclose other billing information that is used to charge a customer of the initial merchant, to any post-transaction third party seller for use in an Internet-based sale of any goods or services from that post-transaction third party seller.

(c) **LIMITATIONS ON USE OF NEGATIVE OPTION FEATURE IN INTERNET-BASED SALES TRANSACTIONS.**—It shall be unlawful for any person to charge or attempt to charge any consumer for any goods or services sold in a transaction effected on the Internet through a negative option feature, unless—

(1) before obtaining the purchaser's initial agreement to participate in the negative option plan, the seller has clearly and conspicuously disclosed all material terms of the transaction, including—

(A) the name of the entity offering the goods or services;

(B) a description of the goods or services being offered;

(C) the cost of such goods or services;

(D) notice of when billing will begin and at what intervals the charges will occur;

(E) the length of any trial period, including a statement that the consumer's account will be charged unless the consumer takes affirmative action and the steps the consumer must take to avoid the charge; and

(F) instructions for stopping the recurring charges in accordance with the requirements of paragraph (3);

(2) the seller has obtained the express informed consent described in subsection (a)(2) from the purchaser before charging or attempting to charge the purchaser's credit card, debit card, bank account, or other financial account on a recurring basis; and

(3) the seller enables the purchaser to stop recurring charges from being made to the purchaser's credit card, debit card, bank account, or other financial account through a simple process that is available via—

(A) the Internet; or

(B) e-mail.

(d) **APPLICATION WITH OTHER LAW.**—Nothing in this Act shall be construed to supersede, modify, or otherwise affect the requirements of the Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.) or any regulation promulgated thereunder.

(e) **DEFINITIONS.**—In this section:

(1) **INITIAL MERCHANT.**—The term "initial merchant" means a person that has obtained a consumer's billing information directly from the consumer through an Internet transaction initiated by the consumer.

(2) **NEGATIVE OPTION FEATURE.**—The term "negative option feature" has the meaning given that term in section 310.2(t) of the Federal Trade Commission's Telemarketing Sales Rule regulations (16 C.F.R. 310.2(t)).

(3) **POST-TRANSACTION THIRD PARTY SELLER.**—The term "post-transaction third party seller" means a person that—

(A) sells, or offers for sale, any good or service on the Internet;

(B) solicits the purchase of such goods or services on the Internet through an initial merchant after the consumer has initiated a transaction with the initial merchant; and

(C) is not a subsidiary or corporate affiliate of the initial merchant.

SEC. 4. ENFORCEMENT BY FEDERAL TRADE COMMISSION.

(a) **IN GENERAL.**—Violation of this Act or any regulation prescribed under this Act shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices. The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(b) **REGULATIONS.**—Notwithstanding any other provision of law, the Commission may promulgate such regulations as it finds necessary or appropriate under this Act under section 553 of title 5, United States Code.

(c) **PENALTIES.**—Any person who violates this Act or any regulation prescribed under this Act shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated in and made part of this Act.

(d) **AUTHORITY PRESERVED.**—Nothing in this section shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 5. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) **RIGHT OF ACTION.**—Except as provided in subsection (e), the attorney general of a State, or other authorized State officer, alleging a violation of this Act or any regulation issued under this Act that affects or may affect such State or its residents may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found, resides, or transacts business, or wherever venue is proper under section 1391 of title 28, United States Code, to obtain appropriate injunctive relief.

(b) **NOTICE TO COMMISSION REQUIRED.**—A State shall provide prior written notice to the Federal Trade Commission of any civil action under subsection (a) together with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such action.

(c) **INTERVENTION BY THE COMMISSION.**—The Commission may intervene in such civil action and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil action.

(d) **CONSTRUCTION.**—Nothing in this section shall be construed—

(1) to prevent the attorney general of a State, or other authorized State officer, from exercising the powers conferred on the attorney general, or other authorized State officer, by the laws of such State; or

(2) to prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

(e) **LIMITATION.**—No separate suit shall be brought under this section if, at the time the suit is brought, the same alleged violation is the subject of a pending action by the Federal Trade Commission or the United States under this Act.

Mrs. HAGAN. I ask unanimous consent that a Rockefeller-Hutchison managers' amendment which is at the desk be agreed to, the committee substitute amendment, as amended, be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4721) was agreed to, as follows:

(Purpose: To make minor and technical changes in the bill as reported, and for other purposes)

On page 15, line 17, strike "purchaser's" and insert "consumer's".

On page 15, line 19, strike "purchaser" and insert "consumer".

On page 17, beginning with line 4, strike through line 15 on page 18.

On page 18, line 16, strike "(d)" and insert "(c)".

On page 18, line 21, strike "(e)" and insert "(d)".

On page 19, strike lines 3 through 7.

On page 19, line 8, strike "(3)" and insert "(2)".

On page 19, strike lines 17 and 18 and insert the following:

(C) is not—

(i) the initial merchant;

(ii) a subsidiary or corporate affiliate of the initial merchant; or

(iii) a successor of an entity described in clause (i) or (ii).

On page 19, between line 18 and 19, insert the following:

SEC. 4. NEGATIVE OPTION MARKETING ON THE INTERNET.

It shall be unlawful for any person to charge or attempt to charge any consumer for any goods or services sold in a transaction effected on the Internet through a negative option feature (as defined in the Federal Trade Commission's Telemarketing Sales Rule in part 310 of title 16, Code of Federal Regulations), unless the person—

(1) provides text that clearly and conspicuously discloses all material terms of the transaction before obtaining the consumer's billing information;

(2) obtains a consumer's express informed consent before charging the consumer's credit card, debit card, bank account, or other financial account for products or services through such transaction; and

(3) provides simple mechanisms for a consumer to stop recurring charges from being placed on the consumer's credit card, debit card, bank account, or other financial account.

On page 19, line 19, strike "**SEC. 4.**" and insert "**SEC. 5.**".

On page 20, strike lines 5 through 8.

On page 20, line 9, strike "(c)" and insert "(b)".

On page 20, line 16, strike "(d)" and insert "(c)".

On page 20, line 19, strike "**SEC. 5.**" and insert "**SEC. 6.**".

The Committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 3386), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3386

SECTION 1. SHORT TITLE.

This Act may be cited as the "Restore Online Shoppers' Confidence Act".

SEC. 2. FINDINGS; DECLARATION OF POLICY.

The Congress finds the following:

(1) The Internet has become an important channel of commerce in the United States, accounting for billions of dollars in retail sales every year. Over half of all American adults have now either made an online purchase or an online travel reservation.

(2) Consumer confidence is essential to the growth of online commerce. To continue its development as a marketplace, the Internet must provide consumers with clear, accurate information and give sellers an opportunity to fairly compete with one another for consumers' business.

(3) An investigation by the Senate Committee on Commerce, Science, and Transportation found abundant evidence that the aggressive sales tactics many companies use against their online customers have undermined consumer confidence in the Internet and thereby harmed the American economy.

(4) The Committee showed that, in exchange for "bounties" and other payments, hundreds of reputable online retailers and websites shared their customers' billing information, including credit card and debit card numbers, with third party sellers through a process known as "data pass". These third party sellers in turn used aggressive, misleading sales tactics to charge millions of American consumers for membership clubs the consumers did not want.

(5) Third party sellers offered membership clubs to consumers as they were in the process of completing their initial transactions on hundreds of websites. These third party "post-transaction" offers were designed to make consumers think the offers were part of the initial purchase, rather than a new transaction with a new seller.

(6) Third party sellers charged millions of consumers for membership clubs without ever obtaining consumers' billing information, including their credit or debit card information, directly from the consumers. Because third party sellers acquired consumers' billing information from the initial merchant through "data pass", millions of consumers were unaware they had been enrolled in membership clubs.

(7) The use of a "data pass" process defied consumers' expectations that they could only be charged for a good or a service if they submitted their billing information, including their complete credit or debit card numbers.

(8) Third party sellers used a free trial period to enroll members, after which they periodically charged consumers until consumers affirmatively canceled the member-

ships. This use of "free-to-pay conversion" and "negative option" sales took advantage of consumers' expectations that they would have an opportunity to accept or reject the membership club offer at the end of the trial period.

SEC. 3. PROHIBITIONS AGAINST CERTAIN UNFAIR AND DECEPTIVE INTERNET SALES PRACTICES.

(a) REQUIREMENTS FOR CERTAIN INTERNET-BASED SALES.—It shall be unlawful for any post-transaction third party seller to charge or attempt to charge any consumer's credit card, debit card, bank account, or other financial account for any good or service sold in a transaction effected on the Internet, unless—

(1) before obtaining the consumer's billing information, the post-transaction third party seller has clearly and conspicuously disclosed to the consumer all material terms of the transaction, including—

(A) a description of the goods or services being offered;

(B) the fact that the post-transaction third party seller is not affiliated with the initial merchant, which may include disclosure of the name of the post-transaction third party in a manner that clearly differentiates the post-transaction third party seller from the initial merchant; and

(C) the cost of such goods or services; and
(2) the post-transaction third party seller has received the express informed consent for the charge from the consumer whose credit card, debit card, bank account, or other financial account will be charged by—

(A) obtaining from the consumer—

(i) the full account number of the account to be charged; and

(ii) the consumer's name and address and a means to contact the consumer; and

(B) requiring the consumer to perform an additional affirmative action, such as clicking on a confirmation button or checking a box that indicates the consumer's consent to be charged the amount disclosed.

(b) PROHIBITION ON DATA-PASS USED TO FACILITATE CERTAIN DECEPTIVE INTERNET SALES TRANSACTIONS.—It shall be unlawful for an initial merchant to disclose a credit card, debit card, bank account, or other financial account number, or to disclose other billing information that is used to charge a customer of the initial merchant, to any post-transaction third party seller for use in an Internet-based sale of any goods or services from that post-transaction third party seller.

(c) APPLICATION WITH OTHER LAW.—Nothing in this Act shall be construed to supersede, modify, or otherwise affect the requirements of the Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.) or any regulation promulgated thereunder.

(d) DEFINITIONS.—In this section:

(1) INITIAL MERCHANT.—The term "initial merchant" means a person that has obtained a consumer's billing information directly from the consumer through an Internet transaction initiated by the consumer.

(2) POST-TRANSACTION THIRD PARTY SELLER.—The term "post-transaction third party seller" means a person that—

(A) sells, or offers for sale, any good or service on the Internet;

(B) solicits the purchase of such goods or services on the Internet through an initial merchant after the consumer has initiated a transaction with the initial merchant; and

(C) is not—

(i) the initial merchant;

(ii) a subsidiary or corporate affiliate of the initial merchant; or

(iii) a successor of an entity described in clause (i) or (ii).

SEC. 4. NEGATIVE OPTION MARKETING ON THE INTERNET.

It shall be unlawful for any person to charge or attempt to charge any consumer for any goods or services sold in a transaction effected on the Internet through a negative option feature (as defined in the Federal Trade Commission's Telemarketing Sales Rule in part 310 of title 16, Code of Federal Regulations), unless the person—

(1) provides text that clearly and conspicuously discloses all material terms of the transaction before obtaining the consumer's billing information;

(2) obtains a consumer's express informed consent before charging the consumer's credit card, debit card, bank account, or other financial account for products or services through such transaction; and

(3) provides simple mechanisms for a consumer to stop recurring charges from being placed on the consumer's credit card, debit card, bank account, or other financial account.

SEC. 5. ENFORCEMENT BY FEDERAL TRADE COMMISSION.

(a) IN GENERAL.—Violation of this Act or any regulation prescribed under this Act shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices. The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(b) PENALTIES.—Any person who violates this Act or any regulation prescribed under this Act shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated in and made part of this Act.

(c) AUTHORITY PRESERVED.—Nothing in this section shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 6. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) RIGHT OF ACTION.—Except as provided in subsection (e), the attorney general of a State, or other authorized State officer, alleging a violation of this Act or any regulation issued under this Act that affects or may affect such State or its residents may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found, resides, or transacts business, or wherever venue is proper under section 1391 of title 28, United States Code, to obtain appropriate injunctive relief.

(b) NOTICE TO COMMISSION REQUIRED.—A State shall provide prior written notice to the Federal Trade Commission of any civil action under subsection (a) together with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such action.

(c) INTERVENTION BY THE COMMISSION.—The Commission may intervene in such civil action and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prevent the attorney general of a State, or other authorized State officer, from exercising the powers conferred on the attorney general, or other authorized State officer, by the laws of such State; or

(2) to prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

(e) LIMITATION.—No separate suit shall be brought under this section if, at the time the suit is brought, the same alleged violation is the subject of a pending action by the Federal Trade Commission or the United States under this Act.

MEASURES READ THE FIRST
TIME—S. 3991 AND S. 3992 EN BLOC

Mrs. HAGAN. Mr. President, I understand there are two bills at the desk. I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title.

The assistant legislative clerk read as follows:

A bill (S. 3991) to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

A bill (S. 3992) to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children and for other purposes.

Mrs. HAGAN. I now ask for second reading en bloc, and I object to my own request en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will be read for the second time on the next legislative day.

ORDERS FOR WEDNESDAY,
DECEMBER 1, 2010

Mrs. HAGAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, December 1; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two

leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each, with the Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes; and, finally, I ask that the Senate recess from 12:30 until 3:30 p.m. for the Democratic caucus meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

Mrs. HAGAN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:42 p.m. adjourned until Wednesday, December 1, 2010, at 9:30 a.m.